GUIDE OF JUDAISM

By

RABBI SIMON GLAZER

GUIDE OF JUDAISM

מורה היהדות

A Systematic Work for the Study and Instruction of the Whole Scope of Judaism

By

RABBI SIMON GLAZER

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TO MY DEAR WIFE

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THIS VOLUME IS DEDICATED

THE AUTHOR

PREFACE TO SECOND EDITION

The "Guide of Judaism" was written and edited in Montreal, Canada, under the most trying circumstances. Problems of the war which had affected the entire British Jewry, and the inner problems of the Greater Montreal Jewry which were ever present, afforded me but very little repose and tranquility necessary for a classical work such as this is. But God was with me, and after going over the pages of the "Guide of Judaism", the proverbial one hundred and one times, I do not find one sentence out of place, or one word to be altered.

The student will find out by real study that the "Guide of Judaism" is the groundwork for every branch of Jewish knowledge. It is the S'mag, the Hinuh, the Ramban, the Halohot G'dolot and Maimonides' Sopher ha-Mizvot combined.

To the teachers of Hebrew schools, my advice is herewith given: Give the pupils of the higher classes, as part of their home work, at least two hours weekly, the "Guide of Judaism". It will enable them to obtain a systematic training in their future studies of Judaism, particularly those pupils who intend taking up the higher branches of Jewish education. The theological students, by committing to memory the 279 commandments which are now in vogue, and tracing them in the "Guide of Judaism", will obtain the fundamental knowledge of the construction of Judaism as practiced in Diaspora.

SIMON GLAZER.
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Kansas City, Mo., Sivan 7, 5682 (June 5, 1922).

PREFACE

When the first rays of emancipation pierced through the Ghetto-horizon, the erstwhile *Hofjuden* were seized with fear lest the Oriental character of Judaism be the barrier to complete political and social equality. Accordingly, a new force was set in motion, and—the era of the Jewish apologist was inaugurated. At the dawn of the nineteenth century Apologism was already an established institution with chief head-quarters in the Central European Jewries. In a measure its doctrine solved some part of the Jewish problems. Some among the early apologists had a belief that by a kind of auto-hypnotism erstwhile Ghetto-dwellers could become Indo-Europeans of Mosaic persuasion. A certain number of the descendants of that generation can now be traced at the head of various anti-Semitic groups.

The *Mashkil* whose type of code was, "Be a Jew at home, and a man abroad," was a cross-breed of an apologist and an assimilator, the axiom itself, however, being a semi-official sanction to the unlawful union.

The movement of Reform followed in the wake of the great unrest in the semi-liberated Jewries. It was wise in its day to select subjects from the synagog, or, rather, from the *Beth-ha-Midrash,* and not from the ultra-radical groups which were on the increase in Southern Europe as a reaction of *Hasidism.* By such good care during its experimental stages, Reform was enabled to mould a nucleus of great fertility when it began a propoganda among the pioneers of the New World.

The Reform-builders aimed high. They started out on a crusade against the *shell,* and on a life-saving mission for the *kernel* simultane-

ously. They advertised their intentions as heading towards an era of prophetic Judaism, therewith affirming that the diaspora was not a curse but a blessing. They outlined their plan with the thoroughness akin to most modern efficiency methods. By process of elimination the Talmud and *Paskim* disappeared entirely from their midst. Having left no *locus penitentiae* behind them, they could not be alarmed lest some future zealot will restore any discarded part within the limits of their sanctum. Then the battle cry: *"Chapeau bas!"*

One could not expect of them a return to Karaitism, but that they would succeed to organize a Torah-less Judaism was even beyond their own expectation. For, what they really have, and which they can point at as the *kernel,* is reduced to the minister's *Drashah,* the mourner's *Kadish,* and the philanthropist's scientific *Zedakah.*

The *coup de soleil* proved too dazzling for the eyes of other elements in the European Jewries. They appeared, on occasions, in the ultra-radical propoganda, particularly on this side of the Atlantic. But they went neither to the synagog nor to the home. Like unto themselves their propoganda was of a floating character. The whole mass of *Hephkerut* was but a single cataract of irresponsibility. Having had no home, no priests nor no high-priests, their brave wives, and still braver children, boys and girls born among the free, are bringing them back to Judaism.

But the *vis vitae* of Judaism in the New World, its renaissance and its progress is possible only in this generation of patriotism and consciousness of self. The bricks of the great edifice of European Jewishness are being carried across the Atlantic. One Jewish centre was always built upon the ruins of another. Such is our history and its philosophy.

The problems confronting Israel to-day are: How shall, or, rather, how can Judaism be perpetuated in the face of Western civilization? Is Judaism really in danger because of its Oriental origin?

Eliminating Reform as a factor in solving these problems, the question arises: What alternative have the spiritual leaders in Israel to offer to the growing generation which is both free and cultured?

Judaism, since the last quarter of the eighteenth century, continued to develop among the great masses of European Jewries along three distinct lines: the Mendelssohnian school, the Israel Baal-Shem school, and the Elijah Gaon school. Frankfurt, Warsaw and Wilna fairly illustrate the characteristics of the intentions of the founders of those schools. Will it be possible, or, facing conditions as they are, is it desirable to perpetuate the divisions and create a *Hassidic* Chicago, an *Ashkenazic* Philadelphia, or a *Pilpulistic* New York?

By means of observation during two decades among various types of communities, and alongside Reform colleagues and radical agitators, it is my firm conviction that the problems of Judaism in the New World can, and will be solved by only one means—by means of EDUCATION.

And, as an *avant propos* I dedicate this work to American Israel, to the growing and grown generation.

SIMON GLAZER.

Chief Rabbi United Synagogues

Montreal, New Moon, Adar 5677 (Feb. 22, 1917).

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שבת קל"ג; ברכות נ"ח; מורה נבוכים, ח"ב, פ"מ; גיטין ל"ו; חולין צ"ה; כתובות קי"א; אבות פ"ב; בבא קמא צ"ב; ערכין י"ז; שבת נ"ד; בבא מציעא נ"ט; ערכין ט"ז; יומא כ"ג; ראש השנה י"ז.

פרק ג

יומא ע"ב; קדושין מ'; סנהדרין ז'; פסחים נ'; בבא בתרא כ"א; שבת קי"ט; כתובות נ'; קדושין ל"ב; ברכות י"ט; יומא כ"ג.

פרק ד

ברכות י"ג; שבת קמ"ט; כריתות ג'; סנהדרין ס"נ; שם ס"ה; ספרא פ' קדושים; שם פ' אחרי; יד החזקה, מדע, עבודת-כוכבים, פ"ב, ג'; עיין כסף משנה בשם מהר"י קולון, שם, פי"א, א'; עיין בפנים, שם, בהנהות; ועיין בהכוזרי, מאמר ה'.

פרק ה

ברכות י"א: שם משנה א': שם ח': יומא י"ט: ברכות י"ד; שם כ"ו; שבת י'; מגילה י"ז; ברכות כ"ו; תענית כ"ו; מגילה כ"ה; ברכות כ"ח; סוטה ל"ח; ר"ה ל"א; מגילה כ"ב; ברכות ל"ב; מנחות ק"ט; חולין כ"ד; ברכות ל"ח; שם מ"נ; יד החזקה, אהבה, ברכות, פ"א, ד'; תענית י"ח—י"ט; שם כ"א—כ"ב; בבא בתרא צ"א; ר"ה י"ח; יומא פ"ו; יד החזקה, מדע, תשובה, פ"ד, א'; שם פ"ה; עיין הראב"ד וכסף-משנה, שם; קדושין ל"ט; חולין קס"ב.

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סנהדרין כ"א; אבות פ"ב; יד החזקה, אהבה, ספר תורה, פ"ז; בבא קמא פ"ב; סוטה ל'; יד החזקה, תפלה, פי"ב—ו"נ; מנחות ל"ד; מגילה ח'; מנחות ל"ה; שם ל"ז; שם כ"ח; שם מ"נ; שם ל"ב; יבמות מ"ו; שבת ק"ל; יבמות ע"א; יד החזקה, אהבה, מילה, פ"נ; סנהדרין כ"א; עיין כסף משנה, אהבה, פ"ז, ב'; ר"ה והמלך; התנוך ומנחת חנוך, מצוה, פ"נ.

ספר שני

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פרק ו

נדרים כ׳; יד החזקה, הפלאה, נדרים, פ״א, א׳; נדרים מ״ט; בכורות מ״ה; שבועות כ״ח—

כ"ט; נדרים כ'; שם כ"ז; שם י"ז; נזיר כ'; נדרים ט"ז; יד החזקה, הפלאה, נדרים, פ"נ, ז'; שם פ"ד, א'; שם, נזירות, פ"א, א'; נזיר ז'; שם ל"ט; ערכין ו'; שם י"ג; שם כ'; שם י"ז; שם כ"ד; שקלים פ"ה, מ"ו; ערכין כ"ח; מעילה ט"ו; שם י"ח; תמורה נ'; שם ט"ז; שם י"ח; שבועות י"ט—כ'; שם כ"ט—ל'; שם ל"ז; בכורות ל"ו; חגיגה י'; נזיר ס"ב; נדרים פ"א; כתובות ע"ז; יד החזקה, הפלאה, שבועות, פי"ב, י"ב.

ספר רביעי

פרק א

ספרא פ' קדושים; פאה פ"ד מ"א; שבת כ"נ; תוספתא, פאה פ"ב; בבא מציעא כ"א; תענית ו'; יד החזקה, זרעים, מתנות עניים, פ"א ה"ז; תרומות פ"ד מ"נ; שם פ"נ מ"ז; ראש השנה י"ב; זבחים קי"ב; בכורים פ"ב; מעשר שני פ"ד מ"ז; יד החזקה, זרעים, מתנות עניים, פ"ו ד'; עיין שם הלכה ז' במשנה למלך ד"ה בעל השדה; מעשר שני פ"ה מ"נ; ראש השנה י'; יד החזקה, זרעים, מעשר שני, פי"א ב'; שם ט"ו—ט"ז; שקלים י"א; ספרי פ' תבא; כלים פ"א מ"ו; בכורים פ"א מ"י; שם מ"נ; ירושלמי בכורים ה"נ; סוטה ל"ב; בכורים פ"נ מ"ז; שם פ"ד; חלה פ"א מ"ט; שם פ"ב מ"ז; ספרי שלח; כתובות כ'; בכורות מ"ז; חולין ק"כ; עיין ברדב"ז, יד החזקה, זרעים, בכורים פ"ט הלכה א'; שם ביד החזקה הלכה ה'; חולין קל"ה; שם קל"ז; עיין ביד החזקה, זרעים, בכורים פ"י ה', ד"ה כיון שזיכה לו הקב"ה, שעל יסוד זה נבנו טעמי תרומות; קדושין כ"ט; שם ל"ז; בכורות מ"ח; שם י"ב—י"ג; חלה פ"ד מ"ט; מעשר שני פ"א מ"ב; בכורים פ"נ מי"ב; תמורה כ"א; חולין מ"ד; עיין בטור יורה דעה סי' ש"ו; ביצה כ"ז; בכורות מ"א; ספרא בחקותי; בכורות נ"נ; שם נ"ז; עיין בלחם משנה, יד החזקה, קרבנות, בכורות פ"ז ה' ד"ה ביום ט"ו קרם הפסח; כתובות ס"ז; בבא בתרא ט'; ניטין ס"א; ראש השנה ל'; ספרא בחר; יד החזקה, זרעים, מתנות עניים, פ"ו ז'.

פרק ב

מועד קטן נ'; ירושלמי שבועות פ"ד ה"ד; מועד קטן ו'; שבועות פ"א פ"ב; סוכה ל"נ; שביעית פ"ד מ"ב; שם פ"ט מ"א; ירושלמי דמאי פ"ב; פסחים נ"ח; יד החזקה, זרעים, שמיטה ויובל, פ"ב ד'; עיין שם בראב"ד; שבועות פ"ח מ"ב; תוספתא שבועות פ"ה; סוכה ל"ט; שבועות פ"ט מ"נ; פסחים נ"ב; ניטין ל"ו; ערכין כ"ח; שביעית פ"י מ"א; בבא מציעא ס"ו; יד החזקה, זרעים, שמיטה ויובל, פ"ב ב'; שם נ'; עיין שם עד הלכה ח'; שם פ"ט ט"ז—י"ז—י"ט; ספרא פ' בהר; ערכין י"ב; בבא מציעא ע"ט; עיין במנין המצות להרמב"ן רכ"ז; ערכין ל"א—ל"נ; סוטה כ"ו; מכות י"ב; עיין יד החזקה, זרעים, שמיטה ויובל, פי"נ י"ב—י"נ ובדרב"ז שם.

פרק ג

סנהדרין כ'; זבחים קי"ב; מדות פ"ב מ"ה; שם פ"ד ופ"ה; שם פ"נ מ"ו; תמיד כ"ח; זבחים נ"ט; שם ס"ב; מנחות כ"ח; יד החזקה, עבודה, בית הבחירה, פ"ב ה"ב; זבחים קט"ז—קי"ז; יבמות ו'; ספרי פ' קרח; כלים פ"א מ"ח; יד החזקה, עבודה, בית הבחירה, פ"ו הט"ז; כריתות ה'; שם י'; הוריות י"ב; שבועות ט"ו; תענית כ"ז; יד החזקה, עבודה, כלי המקדש, פ"ד ה"ד; ירושלמי, שקלים, אלו הם הממונים, הלכה י"ב; יומא נ"ז; מגילה ט'; תענית כ"ו—כ"ז; שם י"ב; יד החזקה, עבודה, כלי המקדש, פ"ו ה"א; סנהדרין כ"ב; זבחים ט"ו; יד החזקה, עבודה, ביאת המקדש, פ"ו—פ"ח; עיין שם, עבודה, איסורי מזבח, ופשוט ע"פ המצות שבתורה; תמורה י"ד; עיין יד החזקה, עבודה, מעשה הקרבנות באריכות; ועיין שם קרבנות; נזיר נ"ו; מקואות פ"ט מ"ד; נדה נ"ה; כלים פ"א מ"נ; אהלות פ"ב מ"א; פרה פ"א; יומא מ"נ; סוטה ט"ז; תמורה י"ב; יד החזקה, טהרה, פרה אדומה, פ"נ ה"ד; שבועות ו'; נגעים פ"א מ"א; שבועות ה'—ו'; ערובין ד'; ערכין ח'; תוספתא נגעים פ"ב; נגעים פ"ד מ"א; פסחים ע"ב; בכורות מ"ד; מועד קטן ח'; סנהדרין ל"ד; ספרי פ' תצא; שבת קל"נ; מכות י"נ; נגעים פ"ז; שם פי"ד; כריתות ח'; בבא בתרא ט'; זבחים פ'; בבא קמא ע"א; יד החזקה, טהרה, טומאת צרעת פי"א ה' ו' ז'; נגעים פי"א מ"ו; שם פי"ב; יד החזקה, טהרה, מטמאי משכב ומושב, פ"ה; אהלות פ"א; תורת כהנים פ' שמיני; בכורות מ"ב; יד החזקה, אבות הטומאות; שם כלים שם מקואות.

פרק ד

זבחים ק׳; מועד קטן כ״ו; סנהדרין מ״ז; יבמות כ״ב; כתובות ד׳; נזיר מ״ו; זבחים ע״ז; טור יו״ד שנ״ב; יד החזקה, שופטים, אבל, פ״ד א׳—כ׳; עיין שם פ״ו נ׳—ו׳; מועד קטן כ״ב; שם כ״ד; שמחות, ואחרונים.

ספר חמישי

פרק א

בבא קמא כ״ד; שם ט״ו וט״ז; שם כ״א; שם י״ד; שם י״ט; עיין יד החזקה, נזקי ממון, פ״ב ט׳, ובראב״ד ובמגד׳ עוז שם; בבא קמא מ״ט; שם נ׳ ונ״ד; שם כ״ח; שם נ״ז; שם צ״ט; שם ס׳—ס״א; שם ג׳; סנהדרין פ״ה; בבא מציעא ס״א; בבא קמא ס״ב; סנהדרין ב׳; כתובות מ״א; בבא קמא ס״ה—ס״ז; שם קי״ח—קי״ט; בבא מציעא ס״א; בבא בתרא פ״ח—פ״ט; בבא קמא קי״ג; סנהדרין פ״ו; שם פ״ה; שם נ״ז; בבא קמא ק״ג; בבא מציעא קי״ג; סנהדרין כ״ה; בבא בתרא כ״ג; בבא מציעא ה׳; שם כ״ו; בבא קמא פ״נ—פ״ד; כתובות ל״ב; בבא קמא כ״ו; שם פ״ו; שם צ״א; סנהדרין ע״ו; שם ע״ד; שם נ״ב; כתובות ל״ז; יד החזקה, נזיקין, רוצח ושמירת הנפש, פ״ו, א׳; סוטה מ״ד; שם מ״ו; בבא קמא פ״א; ערובין פ״ח; בכורות י״ח; חולין נ״א; שם ס׳; ירושלמי, תרומות פ״ח ה״ג; בבא מציעא ל״ב—ל״ג; בבא קמא נ״ב; עיין כסף משנה, נזיקין, רוצח ושמירת הנפש פי״ג ט׳.

פרק ב

בבא מציעא מ״ט. קדושין כ״ו; שם פ״ה; שם כ״ז; בבא בתרא פ״ו; קדושין כ״ב; שם כ״ה; בבא בתרא פ״ד; שם ע״ה; בבא קמא נ״א; בבא מציעא פ״ו; בבא בתרא פ״ו—פ״ז; קדושין כ״ז; עיין יד החזקה, קנין, מכירה, פ״נ ח׳—ט׳ בראב״ד ובמגד׳ עוז; בבא מציעא מ״ד; קדושין כ״ח; שבת קפ״ד; ניטין י״ד; בבא מציעא ע״ז—ע״ח; שם ק״ד; בבא בתרא קפ״ח; בבא מציעא נ״א; בבא בתרא צ׳—צ״א; עיין כסף משנה, קנין, מכירה פי״ד ב׳; ועיין שם במגיד משנה, הלכה י׳, ד״ה ראשון; בבא מציעא נ״ט; קדושין מ״ב; שם נ״ו; שבועות ל״א; בבא קמא ח׳; בבא מציעא י״ד; כתובות צ״ב—צ״נ; יבמות צ״ג; בבא מציעא פ״ו; ניטין נ״ט; קדושין כ״ו—כ״ז; שם ס״ה; בבא בתרא קמ״ד וקמ״ח; עיין יד החזקה, קנין, זכיה ומתנה, פ״נ ד׳; בבא בתרא מ׳; שם קל״א; שם קמ״ה; ניטין י״ד; בבא בתרא י״ח; עיין יד החזקה, קנין, שכנים, פ״א ד׳; בבא בתרא ז׳; שם י״ז וי״ט; קדושין מ״א—מ״ב; ניטין ל״א; כתובות צ״ח—צ״ט; בבא קמא ע׳; כתובות צ״נ; עיין יד החזקה, קנין, שלוחין ושותפין, פ״ד א׳; בבא מציעא ס״ט וע״א; קדושין י״ד; תורת כהנים פ׳ בהר; נדה מ״ז—מ״ח; ספרי פ׳ ראה; קדושין כ׳; שם כ״ב וכ״נ; עיין יד החזקה, קנין, עבדים, פ״ט ח׳.

פרק ג

שבועות מ״ט; בבא מציעא ד׳—ו׳; שם צ״נ; שם כ״ט; ניטין כ״ט; סופרים פ״י; בבא קמא י״א; בבא מציעא ל״ז; שם ס״נ; יד החזקה, משפטים, שכירות, פ״ה ב׳; מכות ט״ו; בבא מציעא קי״א; שם צ״א; מכילתא, משפטים, פי״ט, בבא מציעא ע״א; שם ע״ה; ספרי תצא כ״א; יד החזקה, משפטים, מלוה ולוה, פ״א ה׳; עיין במגיד משנה שם ד״ה כשתובע, ובלחם משנה; שם פ״ב ב׳; מועד קטן י״ז; תמורה ד׳; בבא מציעא קט״ו; מכות ט״ז; בבא מציעא ס׳; שם ע״ב; שם ע״א; יד החזקה, משפטים, מלוה ולוה, פ״ח א׳—ב׳; עיין במגד׳ עוז, בהראב״ד, בכסנה למלך, ובכסף משנה שם; טעם נפלא על רבית עכו״ם; בבא מציעא י״ד; בבא בתרא מ״ה; שם קנ״ז; כתובות צ׳; שבועות ל״ח; שם מ״ד; שם מ״ח; יד החזקה, משפטים, טוען ונטען, פ״ב נ׳; בבא מציעא נ״ו; שבועות מ״ו; בבא בתרא מ״ה—מ״ו; שם ל״ב; שם ל״ח; שם מ״ב; שם קט״ו; שם ק״ח—ק״י; שם קכ״ב; בכורות ע״ו; בבא בתרא קמ״ב; בכורות מ״ו; שם נ״א; יבמות ל״ח; יד החזקה, משפטים, נחלות פ״ה א׳; שם פ״ו י״ב וי״ג; שם פי״א.

פרק ד

סנהדרין מ״ו; שם ל״ב; שם י״ז; מנחות פ״ה; קדושין ע״ד; סנהדרין ל״ו; שם י״ח; יבמות ק״ח; שם ק״ב; נדה מ״ט; סנהדרין פ״ד—פ״ה; שם ו׳; שם י״ג; שבועות כ׳; סוטה מ״ד; סנהדרין י״ד; יד החזקה, שופטים, סנהדרין, פ״ח, א׳—ב׳; סנהדרין מ״ט; יד החזקה, שם, פט״ו, י׳ י״א י״ב וי״ג; סנהדרין מ״ו; מכות כ״ב; שם י״ג; שם ט״ו; שבועות כ״ח; תמורה נ׳; סנהדרין פ״ו; יד החזקה,

שופטים, סנהדרין, פי"ט; שבועות ה'; כתובות ק"ה; שבת נ"ו; בכורות כ"ד; קדושין ע'; שם י"ב; בבא מציעא קי"ב; סנהדרין ח'; שם ס"ו.

פרק ה

סנהדרין ל"ב; שבועות ל'; סנהדרין י"ח; עיין כסף משנה ולחם משנה, יד החזקה, שופטים, ערות, פ"א, ד"ה כהן נדול; סנהדרין מ' ומ"א; בבא מציעא קי"ב; כתובות כ"ו; סנהדרין ל'; מכות ו'; סוטה י"א; שם מ"ז; גיטין י"ח; מכות ו'; כתובות כ"א; יד החזקה, שופטים, ערות, פ"ו ב'; כתובות כ"ח; בבא קמא פ"ח; ר"ה כ"ב; גיטין כ"ג; סנהדרין כ"ד; נדה מ"ט; גיטין ע"א; סנהדרין כ"ה; שבועות ל'; סנהדרין כ"ו; שם כ"ט; מכות ה'; יד החזקה, שופטים, ערות, פ"כ ב'; סנהדרין פ"ו; עבודה זרה ז'; ספרי פ' שופטים; ערוות פ"א מ"ה; ראש השנה כ"ה; יד החזקה, שופטים, כמרים, פ"; עבודה זרה כ"ו; סנהדרין פ"ו; שם נ"נ; שבועות ל"ו; קדושין ל"ו; יבמות כ"ב; סנהדרין פ"ז; קדושין ל'; סנהדרין ס"נ; שם ע'—ע"א; שם כ'; ספרי פ' שופטים; כריתות ה'; בבא קמא פ"ח; יבמות מ"ה; יד החזקה, שופטים, מיכים פ"א; עיין שם הלכה ו'; ועיין ברדב"ז שם ד"ה אין מעמידין; שם, הלכה ט'; הוריות י"א; סוטה י"ח; שם מ"א; סנהדרין י"ח; שם כ"א; שם ע'; יד החזקה, שופטים, מלכים, פ"ד הא"ב; סנהדרין כ'; ספרי פ' עקב; יד החזקה, שם, פ"ח ה"ח; בבא קמא צ"א; שבת י"ט; ערובין י"ז; סוטה מ"ב; קדושין כ"א; יבמות מ"ט; שם מ"ח; עיין ביד החזקה, שופטים, מלכים, פי"א וי"ב ער נמירא.

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BOOK I

ספר ראשון

מדע — אהבה

CHAPTER I

יסודי התורה והאמונה

THE FOUNDATION OF JUDAISM RESTS UPON SIX MANDATORY AND FOUR PROHIBITIVE COMMANDMENTS

(1) "I am the Lord thy God." (Exod. xx. 2.)

The whole system of religious, moral, social, ethical and philosophical doctrines of Judaism is based upon what the words, "I am the Lord thy God," imply. From these words we know that there is a God; and that the implied commandments are: To believe that God exists; that He called into being all that which exists; that He is Omnipotent and Omnipresent; and that time, space, matter, fire, water, air and clay are witnesses of His Infinite Truth.

We can no more countenance atheism than we could uphold a hypothesis, for example, that the Torah is the result of so much ink spilled upon so many sheets of paper.

(2) "Hear, O Israel, the Lord our God is one God." (Deut. vi. 4.)

Monotheism is the outstanding doctrine of Judaism. The Unity of God is perfect and true. The completeness of every creature, the scien-

tific regularity of the entire planetary system, the beauty and harmony of the cosmos are positive evidence that the world is the creation of One Intelligence.

God is Incorporeal. He can not be localized. The prophets, at times, spoke of God as possessing organic features; but this figurative way of describing God was used so as to make the teachings or warnings clearer to the human mind, which conceives things as being composite.

(3) "Thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might." (Ibid. vi. 5.)

Our conduct is but a means to an end—to get the good in life. But the good must also be true. The evildoer has the good in view, but his conduct is entirely false. The self-sacrifice of the just person is admittedly painful, but his conduct is true. To establish the equilibrium of acts and results, the element of love must also be a force in conduct.*

Instinct regulates the conduct of the lower animals, because it only helps to control the movements of the animal's organism, which thus safeguards self-preservation. Judaism refuses to tolerate the idea that man, in his conduct, has the same end in view.

There is a way of employing the whole organic system, and regulate every movement, for a spiritual as well as for a physical purpose. Such way is discovered by self-effacement, which, in turn, is discovered by remembering how insignificant a particle man forms in the make-up of the universe. The result of such searching investigation of self will be a willingness to be of service and of a longing to express that feeling of love of which only a higher intelligence is capable.

To that end we were commanded to love God, even if such love demands a literal self-sacrifice. For only such conduct leads to the real good which is also true. By making our physical elements subservient to the spiritual within us, we may reach the goal of proper conduct which was intended for man.*

* See Spencer's Data of Ethics.
* See Ibid.

(4) "Thou shalt fear the Lord thy God." (Ibid. vi. 13; x. 20.)

Where love fails as an element of true conduct, fear might come to man's rescue in moments of perplexity and weakness. Our acts are always performed in the presence of God. Sins are seldom committed in the presence of man, for fear is the common element which prevents it.

For the protection of society, criminals are punished. At the lower stages of civilization society interested itself but very little with individual crimes. The punishments were generally inflicted either by the victimized individuals or, as in case of murder, by the victims' relatives.† It has taken many generations of gradual development to realize that the stability of society as a whole depends upon the safety of every individual member thereof.

God will not tolerate sin, nor forgive the sinner. Even therein the weight of this commandment is to be noted, for retribution is certain to follow.

(5) "But I will be hallowed among the children of Israel; I am the Lord which hallows you." (Lev. xxii. 32.)

The greatest moment in history is the Revelation upon Sinai, and the shining feature of that event is the people of Israel. To an insignificant minority of the then existing races, to a homeless host of ex-slaves, God entrusted the treasured heritage of mankind, the Torah, and charged it to become a kingdom of priests, and an holy nation.

From his very dramatic appearance upon the scene of the world's history, Israel was subjected to the closest scrutiny. He gave the Torah to the world and conquered the soul of humankind; but at what cost!

Our fathers undertook to be an holy nation, and we must continue as such or become extinct. We are still pointed out as the God-chosen people. Even our ancient home is yet known as the Holy Land.

We must, therefore, submit to the world's criticism; for we must do better, live purer, and be better than others. We must hallow the name

† Ancient Roman Jurisprudence.

of God. Such indeed is the force of the commandment which is implied in the words, "But I will be hallowed among the children of Israel."

(6) "The Lord thy God will raise up unto thee a prophet from the midst of thee, of thy brethren, like unto me; unto him ye shall hearken." (Deut. xviii. 15.)

Moses was the greatest of all prophets. All other Jewish prophets were the messengers of God, at given times, to communicate His will to the people upon earth.

This commandment charges us to believe in the prophets and in prophecy.

A true prophet was known by the nature of his teachings. If he advocated the permanent suspension of even one law of the Torah, he was a pseudo-prophet.

After the Revelation upon Sinai, no prophet was ever delegated to advocate the suspension of any of the immutable laws of the Torah. Contrariwise, the prophets were sent to enforce them.

(7) "Thou shalt have no other gods before me." (Exod. xx. 3.)

This commandment forbids the belief in any religion which tends to establish the worship of a deity selected from either human or superhuman beings; or which accepts the doctrine that God shares His powers with another, or with others; or which denies in any form whatever the perfect Unity of God.

There are three commandments in Judaism, the observance of which is more important than even life itself. They are: (a) Idolatry; (b) Adultery; (3) Murder. Hence, the many sacrifices which the people of Israel suffered throughout its long history for the sake of preserving in all its purity the doctrine of Monotheism.

(8) "Neither shall ye profane my holy name." (Lev. xxii. 32.)

Profaning the name of God includes every form of conduct which is not godly. The Torah is both remedial and preventive. It is a medicine of life, and an antidote to being vanquished by the evil wrongs of life.

But its doctrines are positive; its followers must be active. Negation and passivity are foreign to it. Every action must be a result of a sincere motive, and its aim must be toward a just end. Even a righteous end must not be obtained by foul means.

Every action contrary to these rules is a profanation of the name of God.

(9) "And ye shall hew down the graven images of their gods, and destroy the name of them out of that place. Ye shall not do so unto the Lord your God." (Deut. xxii. 3-4.)

This commandment refers to the images and idols of the ancient inhabitants of Canaan. There are no such idolatrous practices among the Christians or Mohammedans, and it is forbidden to destroy any thing, book or place upon which the name of God appears, even though they were made, written, or set up by non-Jews.

But this commandment has a far deeper significance. The theories of the Atheists, Pantheists, and Evolutionists of some schools destroy the name of God in all their teachings. After the Torah has taken hold of the savage heart and mind and caused them to feel and think, some of the scientists come and remove the name of God from the path which leads to progress.

(10) "Ye shall not tempt the Lord your God." (Ibid. vi. 16.)

God never performs miracles, if the object in view is naturally possible. Our belief in Moses is not due to the miracles he performed. They were timely necessities. The evidence of true prophecy is not the number of miracles it brings about. The true prophet is recognized by his teachings.

Where the natural ends, the spiritual begins. Even the great scientists are yet far off from that boundary-line.

God will not change the course of nature for the sake of convincing the infidel. Neither will He destroy the sun, or the moon, or the stars to convince those who believe them to be gods. Nature will take its course,

the world will go on as it was intended, but the fools who did wrong will have to give an accounting.

Judaism does not own a fixed set of creeds; but Maimonides and Joseph Albo have compiled Articles of Faith, based upon the commandments enumerated in this chapter.

The Articles of Maimonides are: (a) Existence of God; (b) His Unity; (c) He is Incorporeal; (d) He is Infinite; (e) He must be worshipped; (f) Belief in prophecy; (g) Moses was the greatest prophet; (h) Torah was given upon Sinai; (i) Immutability of the Torah; (j) God's foreknowledge of men's conduct; (k) Retribution; (l) Coming of the Messiah; (m) Resurrection.

The Articles of Joseph Albo are: (a) Existence of God; (b) Revelation; (c) Retribution.

CHAPTER II

מדות ודעות

THE PRINCIPLES OF ETHICS ARE BASED UPON FIVE MANDATORY AND SIX PROHIBITIVE COMMANDMENTS

(1) "The Lord shall establish thee an holy people unto Himself, as He hath sworn unto thee, if thou shalt keep the commandments of the Lord thy God and walk in His ways." (Deut. xxviii. 9.)

We are commanded to walk in the ways of God. God has no rules of conduct that we may copy or comprehend. But we may, with our own limitations, draw proper conclusions as to what God may consider good conduct. The first principle in ethics by which to be guided is purity of purpose.

In man, the whole system of life in the universe is mirrored in miniature; in fact, man is a miniature cosmos.* We, therefore, believe that man was created in the image of God. Of all the billions of human beings who were, are, or will be, no two specimens were, are, or will be alike, either physiognomically or psychologically.† But there must be a common ground of understanding between men, since it is in their nature to live in groups and to aspire to a social existence, and since our social existence depends upon this common ground of understanding.

By observing everything around and above us, we may find the right path of ethical conduct. Every planet has its duty, and continually travels in its orbit. It is not in the nature of Mars to deviate to the orbit of Saturn.

The senses, feelings, and love of life in every human being form the common ground of mankind. But in individual characteristics, as well as aspirations, all men vary. The mental make-up of the first man who wished to be king was certainly different from the mental make-up of the first grave-digger, although as a means to an end both served a purpose. But it would not be for the benefit of organized society that every man shall be either a king or a grave-digger.

The ways of God are manifest beneath, around and above us. In the fiercest animal we find love; in the smallest creature we find thrift; in the regularity of nature we find moderation. Through all the works of God, love, mercy, kindness, forgiveness, truth and justice are shining.

(2) "And to Him shalt thou cleave." (Ibid. x. 20.)

The goal of life, in so far as man can divine it, is righteous living. Every step leading to that goal must be taken upon a well-defined path. Such path is frequented by the just and upright among man. Men are born equal in their natural desires. Their instincts are alike. Mentally and spiritually they differ. Moreover, every individual child must be trained in order to develop its mentality. And, while not every human being is capable of becoming, for instance, a great singer, he is, nevertheless, able to acquire the rudiments of proper conduct. He may accomplish the aim of his humble life by copying the ways of the just and

* See Ikrim by Albo.
† See Berohot, 58.

upright members of society. By so doing, every individual conduct becomes part of the wisdom of God, to which organized society must cleave, and without which its existence will not be based upon that moral force which is intended to secure its perpetuity.

(3) "But thou shalt love thy neighbor as thyself." (Lev. xix. 18.)

An organized community derives its strength from the moral force of its individual members. Tyranny takes the State in its grasp only when real fellowship among the individuals is absent. The right of every member of society to his person, his property and his honour is best safeguarded when the whole social structure is built upon a foundation of neighborly love.

The force of love will break every wall which separates mankind from the region of true happiness. But its real strength lies not in the artificial machinery which directs organized society; its source must be discovered in the hearts of the most humble members thereof.

(4) "Love ye therefore the stranger; for ye were strangers in the land of Egypt." (Deut. x. 19.)

There are four elements which compose the primary causes of interracial and international strife. They are: (a) colour; (b) speech; (c) custom; (d) religion. Each group of the human family endeavors to impose what it considers best upon the rest of the population of the world. The result is everlasting wars. Even the high polish of civilization failed to make men good neighbors. Government and science could not group the nations as one human family.

To the member of another race, or nation, our love must be twofold: (a) because we must love him as our fellow-being; and (b) because he is a stranger. Upon such foundation must international justice be built. Individuals, like nations, have their likes and dislikes, their ambitions and pretences; the same force must regulate the conduct of both.

(5) "Thou shalt in any wise rebuke thy neighbor." (Lev. xix. 17.)

Truth is a stranger to both flattery and secret diplomacy. Candor is the mother of colorless morality. Flattery leads to deceit; deceit leads to falsehood; falsehood leads to hatred; hatred is the inevitable cause of

ruin. Secret diplomacy leads to apprehension; apprehension leads to counteraction; counteraction leads to distrust; distrust leads to preparation; preparation leads to jealousy, which is the inevitable cause of war.

The greatest amount of good upon earth was produced by open-heartedness; and the greatest amount of evil upon earth was produced by hypocritical tongues. Even though we know that our frank criticism will turn the wrath of our fellow upon us, we must not refrain from calling his attention to his wrong conduct. At times we are bound to brave even bodily harm in order to save a fellow from evil. In the end such conduct will bring double result: (a) the usefulness of a fellow to society; (b) his gratitude.

(6) "Thou shalt not hate thy brother in thine heart." (Ibid.)

All good that love creates, hatred struggles to destroy. Hatred might be a good attribute when directed against crime, sin, or evil-doing. Which explains the reason of its presence among our other attributes.

It is not sufficient to refrain from exhibiting hatred by violent actions; it must not exist at all. The causes of hatred may be removed by pursuing a course of unselfish conduct toward our fellows. The greatest wrong perpetrated by others against us can do us no more harm than making our hearts an abode for hatred, which is a destructive element, poisonous to the body, and fatal to the soul. Hatred, indeed, does cause physiological and psychological changes, and thus injures our health.

(7) "But suffer no sin against him." (Ibid.)

In our endeavors to be of service to society, we must first ascertain if such service is useful. The test of it all is—improvement. For the sake of society we were commanded to reprimand our fellow, if he does wrong. But it does not follow that we may slander him, or denounce him publicly, or make him feel that his conduct is overburdened with sin. The words of the wise must come forth calmly. Then they are best understood and listened to.

The prophets, when they denounced the evildoers of their day, did so against the enemies of God, which were then undermining the very exist-

ence of the strongest organized moral force. A public enemy can not be too severely dealt with.

(8) "Ye shall not afflict any widow, or fatherless child." (Exod. xxii. 22.)

Human nature, in the unthinking individual, as well as in the misguided nation, is so weak that it ever chases the easiest prey. The minority, the weak, and the poor are usually the victims in a poorly organized State.

It is cowardice to overlook the downtrodden.

God is the Father of orphans and the Judge of widows. In our dealing with them we must consider what would be right in His sight. The test of real courage is not what we accomplish with might, but what we accomplish with right.

(9) "Thou shalt not go up and down as a talebearer among thy people." (Lev. xix. 16.)

A sycophant is worth to be cast to the dogs. The talebearer is morally responsible for poisoning three souls: (a) his own; (b) the listener's; (c) the subject's. Talebearing is more heinous than the three crimes of idolatry, adultery and murder.

The enormity of the crime is not diminished even though the tale be true.

Defaming one with an untruth means to rob him of his soul, which is the immortal part of God within him. Talebearing is more than a disease: it is a plague. Leprosy should no more be dreaded than the appearance of the talebearer or slanderer. An evil tongue is the issue of a false heart. A true heart will never transmit poison to the tongue. Truly, life and death lodge at the edge of the tongue.

(10) "Thou shalt not avenge." (Ibid. xix. 18.)

Forgiveness is the offspring of love and mercy. We can suffer nothing by forgiving wrongs committed against us, not even the ill-will of the wrongdoer.

Even a mild rebuke, when we bestow a favour upon a fellow who, under similar circumstances, refused us, is not proper conduct.

In punishing criminals, we must not do it from a motive of vengeance. Punishment is dealt out for the safety of society as a means; but the end in view must be a corrective measure for the criminal himself.

(11) "Nor shalt thou bear any grudge against the children of thy people." (Ibid.)

To bear a grudge against a former enemy and watch when he be at a disadvantage to strike with full force, might be a rule of Satanic diplomacy. We should never harbor such thoughts.

After forgiving our enemy, we must not leave a trace, either of the cause or of the matter, linger in our hearts.

These constitute the rules of conduct for the followers of the laws of Judaism—a religion which is the fountain of life.

CHAPTER III

תלמוד תורה — תלמידי חכמים

TWO MANDATORY COMMANDMENTS CHARGE US TO STUDY THE TORAH, AND HONOUR THE ELDERS WHO GLORIFY IT

(1) "And thou shalt teach them diligently unto thy children." (Deut. vi. 7.)

The people of Israel had inherited a Triple Crown: (a) Priesthood; (b) Sovereignty; (c) Torah. In diaspora, priesthood and sovereignty are only sacred traditions glorifying the historic houses of Aaron and David. But the Torah was given to all Israel, for all generations. It is the most valuable jewel in the Triple Crown. Priesthood and Sovereignty were the shell and the Torah the kernel of the ancient culture of Israel.

The nations succeeded in destroying the Temple, wherein the Priest-

hood was segregated; they have also annexed the sacred territory over which Sovereignty was supreme; but they could not, even with the aid of all means of destruction and barbarism, erase one iota of the Torah.

Without a country, without a government, even without a common language, scattered throughout the five continents among heterogeneous races, the people of Israel is still found immune from destructibility. Philosophy, history and science fail to account for the phenomenon. The only explanation possible is the one revealed in the Truth of the Torah. As long as there is a father who teaches his son the Truth of the Torah, the generations of Israel will not be interrupted.

The ancient Rabbis, even while the Temple was still in flames, recognized the everlasting truth of the commandment, "And thou shalt teach them diligently unto thy children."

Wood and stone can be replaced; in time even a country can be reconquered; but a nation which loses its soul is lost forever. The foresight of the Rabbis, when Rome triumphed over Judaea, in inducing Titus to grant them Jabneh as a home for the Torah, saved the Jewish people from total extinction. For centuries the spiritual life of the whole people had been centered in the Temple. Individuality, in and for itself, did not exist. Judaism, up till that time, was an objective spirituality.* The introduction of idolatry, similar to that which followed the internal disruption between Judah and Israel during the First Temple, was but a step away. History might have repeated itself. A creative force became a necessity. Judaism had to be either a subjective element in the life of the individual, or doomed to sterility.

It was the Sanhedrin, headed by ben Zakkai, which created the great reform. Prayers took the place of the sacrificials; the Torah was made to be what the Temple, the priests, and the kings were heretofore; the commandments touching the life of the people in the Promised Land became the object of academic discourse; and the commandments of a uni-

* See Hegel's Philosophy of History, Judaea.

versal character, touching the individuality of every person, were brought forward as the subject of everyday life.

The loss of the Ten Tribes was, no doubt, due to the inability of the then spiritual leaders to make of the Torah more than what Spinoza calls "a rod of correction."

The present-day reformers are only returning to the primitive conception of the spiritual objective of Judaism, and the doom of their doctrine is certain to come about before long. The segregation of the entire spirituality in the modern temple; the introduction of what they call esthetics; the denial of national hope, and, at the same time, the promise of the immortality of the soul, form such a volume of conflicting theories that it can be interpreted to mean only a bed of roses for a transition either to Unitarianism or Christian Science.†

Every individual must pray, study the Torah, instruct it to the young, live by it, die for it; otherwise both, the Torah and the people, fail to justify their continuity.

Amidst the great tragedy we find the Rabbis not in tears, but full of courage, breaking ground for a new and lasting foundation upon which was built the edifice of Judaism in exile. The death of martyred Rabbis only increased the heroic efforts of the living ones. Death at the hands of tyrants for daring to pursue the study of the Torah was but an incident in a day's labour. The first necessity after bread, in every camp of the refugees, was a school-room, where to instruct the young in the Torah. After the supply of papyrus from Egypt was cut off by Ptolmy, and sheep-skin, too, was scarce, the Rabbis became expert net-hunters, and upon the parchment of deer-skins, acquired by means of net-hunting, they wrote the Torah, and saw to it that the young were properly taught.*

Moreover, what moral force the Rabbis were able to exercise was utilized to increase the number of schools. A community without a

† See Reform Platform, Philadelphia, 1869.
* See Baba Meziah, 85.

school, and without a reason for not having one, was excommunicated, or, as some interpreters of this law would have it, was literally exposed to destruction. A child six years old was initiated in the study of the Torah. For every twenty-five children a teacher was engaged. In order to get better tuition, children were suffered to walk a long distance, even to cross a river, if it could be done safely.

The silvery stream alongside the crimson ocean of Jewish sufferings in diaspora is the observance of the commandment, "And thou shalt teach them diligently unto thy children."

(2) "Before the hoary head shalt thou rise up, and honour the face of the old man." (Lev. xx. 32.)

A people must respect its leaders. Particularly a people which has no physical force to create such respect. Next to the Torah itself comes the honour of its students. Constituted authority, if properly honoured, safeguards the institution for which it was authorized. The influence of a teacher upon his pupils is commensurate with the degree of respect he is able to command. The long chain of uninterrupted leadership of the Rabbis throughout the tragic history of the people of Israel, is due mainly to the mutual respect between Rabbi and flock.

For many generations after the destruction of the Temple, the Rabbis continued to support themselves by the toil of their hands. Possibly because it was a more commendable way to do. But it will not be far from the truth to assert that they did so because of the fear that the masses would look upon them as a second priesthood. In all history there can be found no parallel to the strength of character, purity of purpose, and spirit of self-sacrifice of the spiritual leaders among the people of Israel.

Neither was the office of Rabbi itself essential to establish divine authority in Israel. Any scholar of upright conduct was considered an authority, and his opinion was respected.

The learned class, while meek and forgiving, was jealous of its honour. Out of the twenty-four different offenses which brought about excommunication upon a member of the Jewish community, the dishonouring of a Rabbi, or leader, or elder, heads the list. When the honour of a Rabbi was publicly attacked, he had no right to forgive, unless public apology was offered.*

Without a government, or any other means of enforcing their edicts, the Rabbis continued to exercise a moral influence upon their flock equal, if not superior to, any other leaders who had the forces of organized society back of them. The opprobrium of the Rabbi, even his frown, was considered the severest form of punishment possible to inflict upon a member in the Jewish community. The Rabbi was the Torah incarnate.

The destruction of Jerusalem became possible only after there was no more respect for the learned; neither will the resurrection of Jewish nationalism come to pass until the respect for the Torah and its exponents will be restored.

Respect for the "hoary head and face of the old man" will make the new mould of Judaism what its real masters intended it to be.

CHAPTER IV

עבודה זרה — דעות מפסידות

IDOLATRY, SUPERSTITION, AND ALL FORMS OF IMPURE BELIEF AND PRACTICE ARE FORBIDDEN BY TWO MANDATORY AND FORTY-NINE PROHIBITIVE COMMANDMENTS

(1) "And that ye seek not after (the inclination) of your own heart, and (the delight of) your eyes." (Num. xv. 39.)

The general conduct of every man depends upon what control his mind has upon his heart and eyes. In order that all three should be har-

* See Yad, I—Talmud Torah, VI, 13.

monized, the mind must be supreme. Material happiness, admittedly the object of all human conduct, is only comparative. The degrees of, and the elements necessary for, complete happiness vary according to the development, status, opportunity, inclination, and organic perfection of the individual. All these are determined by the mind, heart, and eyes. What is known as sentiment might be a manifestation of a desire of the heart without regard to the calculations of the mind. The eyes are the messengers of the heart. Sometimes they are its enticers.*

Ethical philosophers believe that every form of conduct is a means to an end, the end being the good. And the laws of biology sustain them, in so far as the natural inclinations of the human being manifest themselves. Judaism does not, as a religion, deny its adherents the good upon earth. Contrariwise, it is mainly a religion of life, with rules of conduct as a basis of true happiness. But it rejects the theory that all efforts of man are material, and for material ends solely.†

Since the days of Abraham, who was first to recognize the Truth and Unity of God, Judaism continues to be a spiritual force among humankind. Moreover, its doctrines are being vindicated as the generations change. Man has worshipped everything under the sun, from the largest planets to the smallest animals. The human mind wandered continuously after what the eye saw and the heart desired. Whether in natural or supernatural theories, man's mind continued to change its course from extreme infidelity and extravagance to the end of fanaticism and privation and vice versa.

Among historical facts we trace, in the course of human progress, a strong inclination of the greatest majority of all races to follow some form of belief. In religion the human mind is more conservative than in any other branch of human knowledge. Practically all laws for the welfare of society had a religious foundation at one time or another. Customs were

* See Pakuda's Hobat Halbobat.
† See Spencer's Data of Ethics.

inaugurated and became permanent features of a people's daily life, only after the seal of approval by the religious authorities was put thereon. The first habits and customs in history, before man had the knowledge of making a home better than a cave, or a hut, were products of religious ideas. We find instances of the truth thereof as early as the Neolithic Period.*

But all the religious ideas of the ancients were a mass of superstition, the chief features being based upon the desire of accomplishing ends which could not be accomplished with the physical means at their disposal. The waste of human ingenuity upon the fields of idolatry and superstition is remarkable. In order to find a method of predicting the future, many races, chief among them the Etruscans, invented a science called "extispicium," which consisted of examining the entrails, particularly the liver, of sacrificed animals! †

Against all such practices and beliefs, the Torah cautioned Israel, commanding even the extinction of the inhabitants of the ancient races of Palestine, which was to become the seat of pure reasoning and true religion.

And although most of the commandments regarding idolatry, its worshipers, and its exponents were timely precautions and preventives, some of them, at least, have a permanent value. With Christian Science, Spiritualism, Mormonism, and some other isms in the ascendancy, the laws forbidding all forms of superstitious practices are of particular interest and value even in modern times.

The text of the Torah is followed in quoting each commandment, with only a word here and there explaining the text or the principle as was interpreted by Maimonides in compiling the commandments.

(2) "And thou shalt burn with fire the (misled) city." (Deut. xiii. 17.)

* Modestov's Histoire Romaine, 39.
† Fowler's Companion to Latin Studies, 219.

(3) "Ye shall utterly destroy all the places whereon the nations which ye are about to drive out served their gods." (Ibid. xii. 2.)

(4) "Ye shall not turn unto the idols." (Lev. xix. 4.)

(5) "But he that pronounced the name of the Lord (with blasphemy) shall be put to death." (Ibid. xxiv. 16.) The warning not to commit blasphemy is taken from Exod. xxii. 27, although that commandment is given among the 613 as prohibiting the cursing of judges.

(6) "Thou shalt not bow thyself to them (the strange gods), nor (7) serve them." (Ibid. xx. 5.)

(8) "Thou shalt not make unto thyself any graven images." (Ibid. xx. 4.)

(9) "And molten gods shall ye not make to yourselves." (Lev. xix. 4.)

(10) "Ye shall not make anything with me." (Exod. xx. 23.)

This commandment forbids the carving of statuary images of man, lest it be turned into a deity; but painting, photographing, or weaving is permitted. The inference is also derived from this commandment not to make duplicates of any of the vessels, or of the sanctuary, or of the Menorah as they were made in the Temple; but the least change in the construction will eliminate the stricture of this law.

(11) "And of the name of other gods ye shall make no mention." (Ibid. xxiii. 13.)

This in taking an oath or a vow.

(12) "And it shall not be built again." (Deut. xiii. 17.)

This refers to a misled city.

(13) "And there shall not cleave to thy hand aught of the (idolatrously) devoted things." (Ibid. xiii. 18.)

(14) "And they shall not do any more such wicked deed as this is (enticing to serve other gods) in the midst of thee." (Ibid. xiii, 12.)

(15) "Thou shalt not consent (show love) unto him (the enticer); (16) nor shalt thou hearken unto him; (17) nor shall thy eye look with pity on him; (18) nor shalt thou spare him; (19) nor shalt thou conceal it (refuse to testify) for him." (Ibid. xiii. 9.)

(20) "But the prophet, who may presume to speak a word in my name, which I have not commanded him to speak (false prophecy); (21) or who may speak in the name of other gods (even if he expounds the right laws)—even that prophet shall die." (Deut. xviii. 20.)

The warning not to do it, for here is prescribed only the punishment, is inferred from Exod. xx. 23 (supra 11).

(22) "Then shalt thou not hearken unto the words of that prophet (who entices), or unto that dreamer of dreams." (Ibid. xiii. 4.)

(23) "Thou shalt not be afraid of him (the false prophet)." (Ibid. xiii. 22.)

(24) "And any of thy seed shalt thou not let pass through (the fire) in Molech." (Lev. xviii. 21; Deut. xviii. 10.)

(25) "Thou shalt not plant unto thyself a grove, any tree, near the altar (in the sanctuary) of the Lord thy God." (Deut. xvi. 21.)

(26) "Turn not unto them that have familiar spirits; (27) and unto wizards." (Lev. xix. 31.)

This forbids the practice of two forms of superstition. According to the Hebraic text, the former forbids the practice of burning incense to

spirits that the worshiper might hear the reply; and the latter forbids the practice of taking into one's mouth a bone of the fowl Yidony and foretell future happenings.

(28) "Neither shalt thou set up a statue (for the purpose of worshiping idols) which the Lord thy God hateth." (Deut. xvi. 22.)

(29) "And any carved stone shall you not place in your land, to bow down upon it." (Lev. xxvi. 1.)

Carved stones were used in the Temple only, upon which it was permitted to bow down.

(30) "Thou shalt not bring an abomination into thy house." (Deut. vii. 26.)

This includes the mere keeping in one's house anything which belongs to the idolatrous equipment.

(31) "Thou shalt not covet the silver or gold that is in them." (Ibid. vii. 25.)

(32) "Thou shalt not make a covenant with them, nor with their gods." (Exod. xxiii. 32.)

(33) "They shall not dwell in thy land, lest they cause thee to sin against me." (Ibid. xxiii. 33.)

(34) "Nor have mercy upon them." (Deut. vii. 2.)

Here the meaning of the Hebraic text is interpreted as forbidding to praise their works, to say that it is beautiful, or graceful.

(35) "There shall not be found among you any . . . that useth divination; (36) or an observer of times; (37) or an enchanter; (38) or a witch; (39) or a charmer; (40) or a consulter with familiar spirits; (41) or a wizard; (42) or a necromancer." (Ibid. xviii. 10-11.)

It will be noticed that (40) and (41) treat the same subjects as (26) and (27); but here the warning is given not to consult those who practice

these forms of superstition, whereas (26) and (27) forbid the practice itself. These eight commandments forbid the whole field of superstition known to the ancient world. But as all superstitious practices have changed in form only, it is forbidden to all Israel to consult, practice, or believe in any form of superstition even though they be known under different high-sounding names or isms.

(43) "It shall not be heard out of thy mouth." (Exod. xxiii. 13.) This is a warning not to entice a Jewish community to serve other gods, or to practice any of the idolatrous superstitions

(44) "Ye shall not cut round the corners (of the hair) of your head; (45) neither shalt thou destroy the corners of thy beard." (Lev. xix. 27.)

The idolatrous priests were obliged by their superstitious belief to cut round the corners of the hair of their heads, and to destroy the corners of their beards. That was their mark of distinction. This commandment forbids only the use of a razor, and the complete destruction of the beard by means of a razor.

(46) "A woman shall not have upon her the apparel of a man; (47) and a man shall not put on a woman's garment." (Deut. xxii. 5.)

(48) "And any etched-in writing shall you not fix upon yourselves." (Lev. xix. 28.)

(49) "Ye shall not cut yourselves; (50) nor make any baldness between your eyes for the dead." (Deut. xiv. 1. Lev. xix. 28. Ibid. xxi. 5.)

(51) "And ye shall not walk in the customs of the nation which I cast out before you." (Lev. xx. 23.) "And in their customs shall ye not walk." (Ibid. xviii. 3.)

In appearance, in dress, in mannerism, in speech, as well as in ideas and ideals, the people of Israel was commanded to be distinguished from

all idolatrous peoples. There is more than one way which leads to the extinction of a race, but the first step leading thereto is the loss of identity.

There is no idolatry in existence now among the civilized races; perhaps many of the reasons which prompted these stringent laws have disappeared; but being in the minority in every country, there is but a short distance between the ultra-reformer and total extinction. Therefore, the spirit, if not the letter, of these laws, particularly those against superstitious practices, is not at all out of date.

CHAPTER V

ברכות, תפילה, תשובה, ותענית צבור

WE ARE COMMANDED TO PRAY, TO GIVE AND RECEIVE GRACE, AND TO REPENT, BY SIX MANDATORY COMMANDMENTS

(1) "And thou shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up." (Deut. vi. 7.)

This commandment is interpreted to refer to the daily reading of the Shema. The Shema is divided in three sections. They are: (a) Ibid. vi. 4-9, inc.; (b) Ibid. xi. 13-21, inc.; (c) Num. xv. 37-41, inc. The Parshot respectively expound the principles of Love, Justice, and Holiness.

The Shema must be read every morning, beginning with daylight; and every evening, beginning with the appearance of stars.

Cleanliness of surroundings, neatness of person and dress, tranquillity of mind, and devotion are essential preparations for the reading of the Shema.

(2) "Him shalt thou serve." (Deut. x. 20.) "And ye shall serve the Lord your God." (Exod. xxiii. 25.)

Upon this commandment was built the whole structure of our prayers. From the inception of Judaism till the days of Ezra, no set of uniform prayers were in existence. Prayers were delivered on occasions, but they were spontaneous, according to the need and ability of the respective worshipers. At the destruction of the First Temple the last remnant of Judaea would have shared the fate of the Ten Tribes, had not Ezra and his collaborators instituted daily prayers to take the place of the daily sacrificials in the Temple. Moreover, the Hebrew language and uniformity of the prayers had the effect of damming the tide of assimilation which was rampant in those days.

The prayers then consisted of Eighteen Benedictions, embracing as many different subjects, viz.: Blessings of the Fathers (Abraham, Isaac, and Jacob); Resurrection, Holiness, Wisdom, Repentance, Forgiveness, Redemption, Healing, Daily Bread, Reunion of Israel; Reign of Justice, Reward, Reconstruction of the Temple, Restoration of the House of David, Acceptance of Supplications, Rebuilding of Zion, Thanksgiving, Universal Peace. In Jabneh the benediction for the extermination of blasphemy and infidelity was added. All these prayers are historically known as the Amidah.

The Jabnean School, immediately after the destruction of the Second Temple, made daily prayers obligatory, and ordered that the number of prayers on week days, Sabbaths and holidays should equal the number of offerings in the Temple. And, as according to Num. xxviii. 3, two burnt-offerings were to be brought daily—the Shaharit and Minhah which, in diaspora, replace these offerings are, therefore, daily obligations. And because the limbs of the afternoon burnt-offering could go on burning even throughout the night, the prayer of Maarib was instituted as a free-will prayer. On Sabbaths and holidays, on New Moon and semi-holidays,

an additional prayer was instituted, because of the Additional Offering brought on those days. (Num. xxviii. 9; Ibid. 11; Ibid. 26; Ibid. xxix. 1; Ibid. 7; Ibid. 13; Lev. xxiii. 36.) On the Day of Atonement (originally on all fast days), the special prayer of Neilah is delivered at sunset. Thus the daily prayers are three: (a) Shaharit; (b) Minhah; (c) Maarib; on Sabbaths, New Moon, holidays and semi-holidays the prayers are four: the above, and Mussaph; on Yom ha-Kipurim, five; the above, and Neilah.

All the traditional prayers are the works of an hundred and twenty members of the Knesseth ha-Gedolah, of whom a majority were prophets. The hymns and other special prayers were produced mainly during the period of the Gaonim, two or three centuries after the Babylonian Talmud was edited.

After all is said, the uniform prayers were the greatest tie which kept all Israel together throughout the long years of exile. In addition to being a spiritual force par excellence, it also kept the Hebrew language alive among the scattered people.

(3) "Speak unto Aaron and unto his sons, saying, Thus shall ye bless the children of Israel." (Num. vi. 23.)

Even in diaspora this commandment is binding. The traditional descendants of Aaron are commanded to bestow blessings upon the congregation in which they worship; and the congregation is obliged to have Birkat Cohenim in its service. Even if the Cohenim are no better than ordinary Israelites, they must be permitted to bless the congregation. A Cohen might be disallowed to participate in blessing the congregation on account of six reasons. They are: (a) defective speech; (b) physical defects; (c) homicide, even excusable, or conversion, even he be a penitent; (d) minority, or want of puberty; (e) intoxication; (f) uncleanness. Birkat Cohenim forms part of the Mussaph Amida, preceding the benediction for universal peace.

The custom recently inaugurated in some synagogs that the Birkat Cohenim be abolished and that the minister should pronounce the bene-

diction which the descendants of Aaron were charged to pronounce, has no foundation in Jewish traditional liturgy. It betrays the ignorance of the reformers as to the meaning of this commandment. It is not the Cohen's but God's blessing that the congregation is to receive. The Cohen was merely charged to perform a duty as a direct descendant of Aaron. He needs no special training for it; neither must his conduct be above the average in order to carry out this commandment.

But this law has a far greater meaning to the ethnological student than to the evolution of Judaism. All income from the various sources, belonging to Palestinian life, were cut off from the priests the very day the Temple was burnt. What reason could an ordinary Jew have had to impersonate a Cohen? The logical conclusion, therefore, must follow that there were among the Cohenim but a negligent few impostors. Thus, what greater proof could the science of ethnology bring forward to establish the identity of a race? We need no cephalic index to establish the purity of at least the Cohenim. And, if the Cohenim succeeded in preserving their purity, as tradition shows, why should there be any need to look for physical evidence to establish the identity of the rest of the Jewish race? Only the elements in Judaism which long for the destruction of everything traditionally sacred can think of effacing such a distinct mark of identification from part of our race.

(4) "And when thou hast eaten and art satisfied, then shalt thou bless the Lord thy God." (Deut. viii. 10.)

There are three kinds of benedictions: (a) Natural; (b) Spiritual; (c) Moral.

(a) In order to enjoy life, we need the means which sustain it. Bread, water, air, and sunshine are the staple necessities. We find all these ready for us. God is the universal Provider. We must grace God in return for all these. Thus, the benedictions in return for the necessities of life are called Natural Benedictions.

(b) As a people, we were chosen to receive the Torah. In it are found the rules of proper conduct. They are our rules. To attain a similar standard of civilization, all other races must borrow from us. God did this. We derive, or should derive, a spiritual joy of owning the primogenitureship of civilization. Therefore, before carrying out any part of the will of God, we must give thanks unto Him. The benedictions before fulfilling a commandment are therefore called Spiritual Benedictions.

(c) There are certain things which come to pass that amaze us, that make us happy, or that make us sad; and there are natural phenomena which either frighten or enthuse us. All these are forms of the wonderful will of God. We must praise Him for everything. These are called Moral Benedictions.

There are four aftermeal benedictions: (a) in return for the food; (b) for having given us a land; (c) for the permanency of Jerusalem; (d) for everything good in life. They were instituted respectively by Moses, Joshua, David, and Solomon, and the authors of the Mishna. When three persons eat at one table, they say the aftermeal grace together; for Zimun is the kernel of Birkat ha-Mozon.

(5) "And if ye go to war in your land against the oppressor that oppresseth you, then shall ye blow an alarm with the trumpets; and ye shall be remembered before the Lord your God, and ye shall be saved from your enemies." (Num. x. 9.)

This commandment is interpreted to include every public calamity, when a repentance of the whole population is required. During the post-Palestinian days, public fasting too became part of repentance in a time of distress.

There are twelve kinds of calamities, which call forth special public prayers and fasting: (a) undue persecution, or war, against a whole Jewish community; (b) war between the nations; (c) a plague which cuts

off three lives, in three consecutive days, in a community which has a grown population of 500; (d) persistent incursion of wild beasts in daytime; (e) invasion of the fields by locusts; (f) or by crickets; (g) blasting winds; (h) mildew; (i) earthquake; (j) disease; (k) paralysis of trade; (l) want, or surplus, of rain.

All these are considered punitive messengers, to cause men to reflect as to his real position upon earth, and to test his abilities as to whether he could, without the aid of God, exist upon earth.

(6) "When a man or a woman shall commit a sin that men commit, to do a trespass against the Lord, and that person be guilty: Then they shall confess their sin which they have done." (Num. v. 6-7.)

Repentance must be directed to God. To Him alone we may confess, unless the sin be against a fellow man, when the wrong committed must be publicly remedied. Repentance must be the result of a free will. The contrition of the one who is physically unable to commit more sins is better than no repentance at all, but it is not pure. In our young days we must remember our Creator.

God left to man the choice of his own conduct. Man may make of himself what he considers fit. We do not believe in a preordained set of rules for every individual. Every man might become just, or he might become wicked. It all depends upon his conduct. There is no Gezerah Kedumah. Hence, the one who sins has his own self to blame. Moreover, it is as natural for man to be master over his own conduct as it is in the nature of things that a cast stone shall fall back to the ground, or that fire and wind shall ascend upward. Had it been otherwise, what blame could there be attached to a criminal? We may find a similarity of conduct among certain groups; there may be a hereditary trace of the criminal, or drunkard, in his issue; but that only adds more labor to the offspring of such group or class to lead useful lives; for the good as well as the bad is of man's own will.

Thus we arrive at the conclusion that the conduct of man can be controlled by himself. If he does wrong and repents, his past will serve as a warning for his future.

Particular care must be taken in our conduct toward our fellow men. Some wrongs may prevent even repentance. Maimonides enumerates twenty-four different wrongs which make the path of repentance difficult, if not impossible, and most of them are wrongs against our fellow men.

The penitent must not be reminded of his former conduct. God considers him as if he had never sinned. What it takes the just a lifetime to achieve, the penitent accomplishes in but a while, if his subsequent conduct proves his honesty of purpose.

The just and the penitent never die. Death is not in existence in the World to Come. Oblivion, total extinction, death, meet only those who proved themselves, by their evil conduct upon earth, that they are unfit to live. We have no comprehension of what Eternal Life means, but it is our belief that Olam ha-Ba is the eternal abode of all souls which were pure upon earth. The Messianic era, for which we long, is not Olam ha-Ba. The Messiah will come to restore nationalism and inaugurate an era of peace and liberty for Israel. But Olam ha-Ba is the goal of the believers in the immortality of the soul. And neither of the two great hopes are possible without repentance upon earth—without Teshubah.

CHAPTER VI

קריאת התורה — תפילין, ציצית, מזוזה, מילה — ספר תורה

THE LAWS CONCERNING TOKENS OF THE BODY, PERSON, DWELLING, AND MIND ARE BASED UPON SEVEN MANDATORY COMMANDMENTS

(1) "Now therefore write ye this song for you, and teach it the children of Israel." (Deut. xxxi. 19.)

The Book of the Torah is the most sacred possession in Israel. It is our spiritual token and our national emblem combined. Every member in the House of Israel must have a Scroll of the Law written for himself. The Torah must not be written in fragments. All Five Books must be written upon parchment, made of the hide of clean beasts, the sections being of a uniform size, and sewed together with arteries of clean beasts. There must not be a single error in the Sepher Torah before it is fit to be read from in public. It must be written in Hebrew. The scribe must be a believer in God. All material must be specifically prepared for the purpose of writing a Sepher Torah. Every word must stand out separately, so that no two words will look like one. Neither must the letters, even in the same word, touch one another.

Moses ordained: To read the Torah in public on Sabbaths, holidays, New Moon, and Mondays and Thursdays, so that no three days will lapse without hearing the words of God. Ezra ordained: To read on Sabbath afternoons one Parsho of the Sedrah of the incoming week; and to read no less than three paragraphs for one Aliyah, and no less than ten paragraphs at any time.

The whole Torah is read through in the course of every lunar year, beginning the Sabbath after Sukkoth, and ending on the last day of the succeeding Sukkoth. For the purpose of public reading, the Torah is divided into fifty-four Sedrat, and each Sedrah is in turn subdivided into

seven Parshot. In addition to the reading of the Torah, a selected chapter of the Psalms or Prophets is read on Sabbaths and holidays, usually by the one who is honoured with the Maphtir.

(2) "And thou shalt bind them for a token upon thine hand; (3) and they shall be as frontlets between thine eyes." (Deut. vi. 8; Exod. xiii. 16.)

These two commandments refer to the phylactery of the hand, and the phylactery of the head. The shel-Rosh consists of a small leather receptacle, divided into four sections, each section containing passages of the Torah written upon parchment, reading from the left, as follows: (a) Exod. xiii. 1-10; (b) Ibid. 11-16; (c) Deut. vi. 4-9; (d) Ibid. xi. 13-21. The shel-Yad consists of one receptacle, which contains the above passages written upon one piece of parchment. The receptacles must be square. The make-up of the Tephilin goes back, according to tradition, to the Revelation; for it was upon Sinai that Moses learnt how to make them. The shel-Yad is fastened upon the muscle of the left arm, opposite the heart; and the shel-Rosh is placed upon the center of the cranium between the parietal and frontal bones, so that the edge of the receptacle rests just above the forehead where the hair-growth starts.

The Tephilin are put on mornings during the Shaharit prayer, on week days only. Sabbaths and holidays are tokens in themselves, requiring no other reminder. No Tephilin is put on the Ninth of Ab during the morning, for it is ornamental; but it is put on during the Minhah prayer.

Only males over thirteen years old are obliged to wear Tephilin during prayer. Women are excused from all laws which must be performed at certain hours, or given times, and as Tephilin is put on during day-time only, they were excused from that duty. The same rule applies to every commandment which is Seman Gramah.

(4) "And it shall be unto you for a fringe, that ye may look upon it, and remember all the commandments of the Lord do them." (Num. xv. 39.)

The fringes in a four-cornered garment were a mark of distinction in ancient Judaea. There were no fringes required, if the garment was

not four-cornered. But a special garment, Talith, with the national colours of white and blue, imprinted, or interwoven in parallel lines, became the custom of wearing during prayer, and a Talith Katan. a miniature Jewish flag, is put on next to the undergarment

(5) "And thou shalt write them upon the posts of thy house, and on thy gates." (Deut. vi. 9.)

The Mezuzah is a piece of parchment upon which the passages of Deut. vi. 49, inc., and Ibid. xi. 13-21, inc., are written, and encased in either wood or metal, and nailed to the right door-post as you go in, about a foot below the cross-post.

(6) "And he that is eight days old shall be circumcised among you, every man-child in your generations." (Gen. xvii. 12.)

The child must be circumcised on the eighth day, even if it happens on a Sabbath, or on the Yom ha-Kipurim. The principal condition upon which proselytes are admitted is circumcision. Only a normal child shall be circumcised on the eighth day. Upon a doctor's advice, a delay is commendable.

Circumcision is a token of an holy covenant. It is one of the commandments which the people of Israel accepted with Joy. Maimonides enumerates thirteen different expressions of covenant between God and Abraham concerning circumcision.

When two brothers of the same mother die as a result of the operation, the third one must not be circumcised. Nevertheless, he is considered an Israelite in every respect.

(7) "And he (the king) shall write for himself a copy of this law in a book. . . . And it shall be with him, and he shall read therein all the days of his life." (Deut. xvii. 18-19.)

When a king ascended to the throne of David, he was obliged to have a special Sepher Torah, in addition to the one every Israelite must have, which he must have with him constantly. It was to remind him that, unlike the tyrants, the laws he was to expound are the laws of God;

that he had no authority to alter, add to, or diminish aught from them; that he himself is subject to observe them; and that his sole authority is to administer justice as is pointed out in them.

All these commandments, while ritual in character, are elements of sociological development, if not evolutionary causes, in the process of Jewish progress throughout their history. Conservatism, at the first glance, might be retrogressive; but in a civilized people it is a source of strength. Nations with ultra-radical tendencies have sprung up from time to time, but, retaining nothing of their originality, they had to lead a parasitical existence, and soon disappeared entirely from the stage of history. The same holds good with sects, or groups. Man is not a caterpillar; he can not scale his appearance and become a butterfly. Every individual, in a time of crisis, must have something to fall back on. A well-nourished body will resist the onset of many diseases and be able to withstand many attacks. Only the spider which has wasted too much silk in an endeavor to ensnare distant flies will be left without thread to build himself a new home when the servant brushes away the home he had built before he started out on his debauch.

As a nation, we were well nourished. We have a sanctuary. Our spiritual home, if we ourselves will not abandon it, is indestructible.

BOOK II

ספר שני

זמנים

CHAPTER I

שבת

THERE ARE TWO MANDATORY AND THREE PROHIBITIVE COMMANDMENTS CONCERNING THE SABBATH

(1) "Six days thou shalt do thy work, and on the seventh day thou shalt rest." (Exod. xiii. 12.)

The Torah was given on a Sabbath. Before the Revelation immediately after they left Egypt, the people of Israel received the command of Moses to institute the Sabbath. The day was pointed out to them by Moses, saying: "Today ye will not find it (Manna) in the field." This is, historically, the first mention of a day of rest after six days' work, among the ancient advanced races.

The views advanced by the higher critics, among them being the Reform wing of Judaism, that the Sabbath was originally connected with Moon-worship*; that it may be traced to a contact with Assyro-Babylonians; and that the word itself is an alien in the Hebrew tongue, fall not far short from many other absurdities emanating from a desire to destroy the tradition and, if possible, to prevent the renaissance of Jewish institutionalism.

* See Jewish Encyclopedia, Sabbath, critical view.

The day is immutable. The sunset of the sixth day, in every clime, notwithstanding geographical differences in time, brings the rest and holiness of the Sabbath.

(2) "Remember the Sabbath to keep it holy." (Ibid. xx. 8.)

There are four rules of conduct on the Sabbath: (a) holiness; (b) joy; (c) honour; (d) rest.

(a) We must sanctify the Sabbath with the words of our mouth. Even to speak of everyday affairs is foridden. The Sabbath is ushered in with special selections of the Psalm, the prayer of Maarib, and the Kidush, both at the synagogue and at home. It is commendable to recite the Kidush over a goblet of wine. The Sabbath must not be looked upon as a day of idleness. Likewise must the departure of the Sabbath be sanctified with special grace over wine, the Habdalah being the real token of separation between the Sabbath and the days of work.

(b) It is a part of the Sabbath to rejoice therein. No form of sadness, not even a death of a member in the family, must be publicly proclaimed, or the grief thereof manifested. Every family must prepare, according to its means, of the best there is for the Sabbath meals. The Sabbath meals are three: Friday night, Sabbath morning, and before sunset. These are obligatory.

(c) The ushering in of the Sabbath is honoured with special lights, over which grace is said. This is a special duty to be performed by the mother of the home. It forms one of the three sacred duties of the woman. Nevertheless, when man is alone, the duty falls upon him. The duty was assigned to woman as a token of her real dominion, which is the home. The Sabbath must also be honoured with neatness of person and dress, according to the means of the respective families.

(d) Physical and mental rest from all labour and care. Man is more than an automatic machine. God did not intend for him to spend his vitality unduly. Man must have a higher aim in life than work in

order to earn enough to eat, and eat in order to have strength to work. The soul is as much in need of care as is the body. There are diseases which afflict the body, and ailments which sicken the soul. There are remedies for both. Idleness is a curse, which leads to many evil results; so is overwork. Both are extremes which bring about, in addition to social strife, most of the evils which overbalance the good all human efforts have produced. Physical rest and mental reflection on the Sabbath, or on one-seventh of a man's lifetime, should be both remedial and preventive measures for the social stability of a people which has witnessed the rise and fall of many brands of culture.

(3) "In it thou shalt not do any work, thou, nor thy son, nor thy daughter, nor thy man servant, nor thy maid servant, nor thy cattle, nor thy stranger that is within thy gates." (Ibid. xx. 10.)

There are thirty-nine principal forms of work which we are commanded not to do on the Sabbath. The offspring of those principles include any kind of work resembling any of the principals. For example, it is forbidden to grind grain into flour on the Sabbath; when one takes a piece of old gold and grates it on a hone so as to get gold-dust, the act is an offspring of the principal. In whatever one's right of property, or interest in the work, as a result of an act by himself or representative, is furthered or increased, comes within the meaning of this law. This, however, does not include one's right to protect and watch his property against loss. Anything in the nature of gain is forbidden; but what one already has he may protect as well as he may lock the door of his house.

The laws of Sabbath are suspended: when human life is in danger, during war time, or in a conflagration, or incursion of beasts. Even when the chances of saving life are extremely doubtful, all manner of labour is permitted. For example: When a woman dies during childbirth, and the issue be not departed from her, every kind of work for the separation of the child from its dead mother is permitted, although the law

of nature is that when the mother dies the child within her can not survive.

(4) "Abide ye every man in his place, let no man go out of his place on the seventh day." (Ibid. xvii. 29.)

The town, or city, limits are within the meaning of the term "place" in this commandment. In addition, one may walk from every boundary-line of his place a distance of two thousand cubits, or ells, Hebrew measure. One, however, may, in case of need, establish his domicile, on Friday, at the end of the prescribed distance, by depositing there food sufficient for two meals, and thereafter walk on Sabbath an additional distance of two thousand cubits. Such form of election of domicile is useful among farmers, for the purpose of coming together on Sabbaths for religious or social purposes. Erubeh Tehumin have kept alive the Sabbath service among thousands of Jewish peasants in the rural districts of the European countries.

Travel by water, when the journey is a long one, is permitted on Sabbath. When the steamer departs on a Sabbath, election of domicile on the steamer must take place on Friday.

Not only is the locomotion limited, but the carrying of things from one premise into another is forbidden. A group of people, occupying one courtyard, or a row of houses with a fence around it, may carry things from place to place in their common premise. But, in order to have a reminder that such permission exists only because of the fact that the premises are held in community, they all must contribute to a loaf enough for one for two meals, and suspend it in a prominent place so that it will serve as a sign thereof. This form of electing communal domicile, Erubeh Hazorot, was instituted by King Solomon.

For the purpose of establishing whether or not things may be carried from place to place on the Sabbath, premises in general were divided into four classes: (a) private; (b) public; (c) neutral; (d) harmless.

(a) Every inhabited neighborhood which is walled off, or fenced in, or any trench, the depth of which is at least ten Tephahim, and the width at least four Tephahim, is classed as private premises, and all inhabitants may carry necessary things from place to place within the limits thereof.

(b) All streets, fields, and roads, if they are sixteen cubits wide, are classed as public premises, and nothing is permitted to be carried within, from, or into any such premises.

(c) A place which is fenced in on three sides, and the fourth side opens toward public premises, or a fenced-in place with posts from three to ten feet high, or streets which are not sixteen cubits wide, or seas, rivers and valleys, are classed as neutral premises. It is forbidden to carry within such limits, but no punishment is prescribed for violating this law.

(d) The space ten Tephahim above the ground of all neutral premises is classed as harmless, there being no offense in carrying things from place to place, or from another place into it, or from it into another place.

Every kind of implement which is employed to do any work forbidden to do on the Sabbath, is also forbidden to be handled on Sabbath This is called Mukzah. It must remain separated throughout the Sabbath. There are three grades of Mukzah: (a) pecuniary; (b) prohibitory; (c) offensive.

(a) Any costly article or implement, the loss or damage of which one would keenly feel, if such article or implement is used for commercial or mechanical purposes, must be separated from one's hands during the Sabbath.

(b) Any article or instrument which became of itself prohibitory to be handled during twilight on Friday—for example, a candle-stick, which could not be handled while the lights were burning—must not be touched during the whole of the Sabbath.

(c) Things which are offensive to the senses must not be handled on the Sabbath, unless there is a natural necessity for them.

Work which can not be done on Sabbath by one's own self must not be accomplished by a non-Jew, unless he was engaged to do the work before the Sabbath was ushered in. According to the Rabbis, telling a non-Jew on the Sabbath to do work which a Jew must not do constitutes a Shebuth, and is forbidden.

(5) "Ye shall kindle no fire throughout your habitations upon the Sabbath." (Ibid. xxxv. 3.)

This commandment is interpreted to refer to the law prohibiting judges from rendering decisions or judging offenders on the Sabbath. Even the wicked must be given rest on that day. Building a fire is included among the thirty-nine different kinds of acts prohibited on Sabbath; hence the deduction that this warning refers to the wrath of the law, which must be restrained when all are at rest.

The Sabbath day is the pivot of Judaism. One who denies the sacredness of the Sabbath is equal to one who practices idolatry. He who refuses to observe all other laws of Judaism is a sinner, but he who deliberately violates the Sabbath has excluded himself from the ranks of Israel, and his soul will be cut off from Olam ha-Ba, if he dies without repenting.

CHAPTER II

ראש השנה ויום הכפורים

THE LAWS OF ROSH-HASHANAH AND YOM-HAKIPURIM ARE BASED UPON THREE PROHIBITIVE AND FOUR MANDATORY COMMANDMENTS

(1) "In the seventh month, on the first day of the month, shall ye have a Sabbath, a memorial of blowing of trumpets, an holy convocation." (Lev. xxiii. 24.)

The calendar, Sabbatical, Jubilee, and agricultural year is ushered in on the first day of Tishri, which is the seventh month of the regal and

festival year. The months of the year are lunar. The calendar year of the lunar system is shorter than the polar year by 10 days, 21 hours and 204/1080 of an hour. During the Palestinian period, the New Moon was ascertained by means of messengers, or observers, who were sent to observe and report the precise moment of the birth of the moon. In the more isolated settlements, where the news of the New Moon could not be reached on time, the New Year was observed two days. At times, when the messenger would not return on the thirtieth day of Elul, two days were observed even in Jerusalem. The Sanhedrin had made a rule that the day when the messengers were expected, as well as the following day, should be observed. Consequently it was enacted that both these days should be joined in one continuous day of 48 hours, and, in this way, the Yoma Arihta was instituted.

The outstanding duty on Rosh ha-Shanah is a spiritual inventory of conduct, of means employed, and of ends gained or lost. Retrospection is the order of the day. With the lapse of a year, one must be able to discover whether or not his course was upward. Human activity can not remain stationary. It must be marked with either progress or regress.

There is a watchful eye, an attentive ear, and a busy hand, to see, comprehend, and take notes of all acts of man. A day of Judgment must come. With the cycle of a year such day arrives.

The New Year is an holy convocation, and a festival, too; symbolic as to the issue. By honest resolutions, by repentance, and by mutual forgiveness the decision will doubtless be favourable. And the expectation of such decision is a source of joy.

(2) "It shall be a day of blowing the trumpets unto you." (Num. xxix. 1.)

The Shopher is a ram's horn. It must be sound. Its minimum length must be a Tephah-Sohek, or about five inches.

If Rosh-ha-Shanah falls on a Sabbath, no blowing of the Shopher takes place. No work is permitted in order to obtain a Shopher. Every one, even minor children, are obliged to hear the sound of the Shopher.

The Shopher is an historical instrument. It stands for liberty. The slave, the homeless, the victims of war, and the toiling masses—all rejoiced to hear the blast of its abrupt notes.

There is a kind of slavery which the most free may suffer. Spiritual slavery, in whatever form, deprives its victims of much more than does physical slavery. An enslaved soul spreads evil throughout its environment. Liberty is not a useful institution, if it brings about only physical happiness for the moment. When the sound of the Shopher is heard, the meaning of the call must be spiritual as well as physical. And the day of retrospection was selected to sound the keynote of alarm against spiritual slavery. It is a call to arms against all evil.

(3) "Ye shall do no servile work therein." (Lev. xxiii. 25.)

All work forbidden on Sabbath must not be done on Rosh ha-Shanah, save all necessities to prepare food, such as cooking, carrying things from place to place, heating and lighting. The latter must be accomplished by ignition from another burning flame, or live coal. Otherwise it comes within the forbidden term of Nolad, or creation.

The prayers of Rosh ha-Shanah are four: Maarib, Shaharit, Mussaph and Minhah; the Mussaph embracing three categories: (a) Sovereignty; (b) Retrospection; (c) Shophrot.

(a) The reign of God, of the spiritual over the material, the universal recognition of God, as a basis of true conduct which leads to real good in life.

(b) The historical sufferings of the people of Israel in its endeavor to bring about the universal recognition of the Torah, beginning with the readiness of Abraham to sacrifice his only son, Isaac.

(c) Liberty, to be proclaimed by the blast of the Shopher.

These three distinct prayers must end with as many benedictions. Each prayer must embrace not less than ten passages from the Bible; three from the Torah; three from the Psalms; three from the Prophets, and

the last one, before the third benediction is pronounced, again from the

These prayers are delivered even when no blowing of the Shopher takes place.

The reading of the Torah on Rosh ha-Shanah is as follows: First day, Gen. xxi.; Maphtir, Num. xxix. 1-6, inc.; second day, Gen. xxii.; Maphtir, as on first day. The sections of the Torah are respectively divided into five Aliyoth, besides the Maphtir, unless one day falls on a Sabbath, when the Aliyoth on such day are seven besides the Maphtir.

(4) "It (Yom ha-Kipurim) shall be unto you a Sabbath of rest." (Lev. xxiii. 32.)

There are Ten Days of Repentance in the Jewish calendar year. The Asheret Yemoh Teshubah are ushered in with the New Year, and they culminate on the Day of Atonement—the most sacred of all days in the year. Yom ha-Kipurim is the Sabbath of all Sabbaths.

The Books of Life and Death are opened on Rosh ha-Shanah and sealed on Yom ha-Kipurim. The righteous are inscribed for life at the very opening of the Books; the wicked are sentenced to Death, and the indifferent are given time to repent before the Books are sealed.

There is a moral death, and there is a physical death. The deeds of the righteous live forever. They become the inspiration of succeeding generations. The misdeeds of the wicked bring about death and destruction wherever encountered. Life becomes purposeless to those who do not find aught but temporariness upon the path of their lives. Life is full of hope and strength, of purpose and interest to those who believe in the existence of Eternity.

To that end a real spiritual accounting must take place periodically within the heart of hearts of every one capable of distinguishing right from wrong. Such accounting is possible only when all cares, all causes, and all temptations of an earthly character are removed.

(5) "And this shall be a statute for ever unto you, that on the seventh month, on the tenth day of the month, ye shall afflict your souls." (Ibid. xvi. 29.)

Self-satisfaction leads to independence, to a feeling of security. Ethical philosophers may scorn the idea of resorting to such methods of affliction in order to obtain a spiritual victory over self.* Barbarians and Pagans may have gone to extremes in punishing themselves to please their deities. Judaism warned its adherents against such practices. But it is not for the sake of pleasing God that this commandment was given. A sermon on restraint is out of place in a ball-room. A dancing crowd thinks very little of what will come to pass after the movements of the feet will be impossible. Many nations have disappeared from history soon after they have reached their material zenith. Only the suffering are likely to feel their soul's needs. The philosophy of history furnishes conclusive proof that after a period of universal suffering men's progress takes concrete form. It is in such spirit that we must approach the Day of Atonement. By self-restraint, by abstaining from everything which is apt to bring about a feeling of self-satisfaction, we may reach out to the depths of our souls, and discover the ailments therein.

(6) "For whatever soul it be that shall not be afflicted in that same day, he shall be cut off from among his people." (Ibid. xxiii. 29.)

Every form of pleasure is forbidden on that day. Eating, drinking, or any other thing of comfort is likewise forbidden. One who spitefully disregards these laws admits his denial of the need of repentance. He excludes himself from the community which gave him the privilege of making of himself that which he was intended for. He scorns the opportunity, and denies the necessity thereof. Eternal life is not his hope; spiritual existence not his goal. He shall eat the fruit of his labours. "He shall be cut off from among his people."

* See Spencer's Data of Ethics.

(7) "Ye shall do no work in that same day." (Ibid. 28.)

Every manner of labour forbidden on the Sabbath must not be done on Yom ha-Kipurim.

The established rule is to spend part of the night and the whole of the day in prayer.

During the day the Torah is read twice: in the morning, after Shaharit, and in the afternoon, before Minhah. The sections are: Morning, Lev. xvi.; afternoon, Ibid. xviii. During the morning the allotments are six, and the Maphtir; during the afternoon three, the third being the Maphtir, when the whole book of Jonah is read.

After the Neilah the ram's horn trumpet is heard but once, as a token of spiritual as well as physical liberty, the last wish on that day being for the restoration of Jerusalem.

CHAPTER III

פסח, חמץ ומצה, הגדה, שבועות וסכות

THE LAWS OF THE THREE FESTIVALS ARE BASED UPON TEN MANDATORY AND TEN PROHIBITIVE COMMANDMENTS

(1) "Even the first day ye shall put away leaven out of your houses." (Exod. xii. 15.)

(2) "Ye shall eat nothing leavened." (Ibid. 20.)

(3) "There shall no leavened bread be eaten." (Ibid. xiii. 3.)

(4) "Seven days there shall no leaven be found in your houses." (Ibid. xii. 19.)

(5) "And there shall no leavened bread be seen with thee." (Ibid. xiii. 7.)

(6) "Thou shalt not eat leavened bread with it." (Deut. xvi. 3.)

(7) "In the first month, on the fourteenth day of the month at even, ye shall eat unleavened bread." (Exod. xii. 18.)

These commandments are the basis upon which all rules regarding leaven and unleaven were established. The laws concerning Homoz u-Mazoh are divided into five branches. They are: (a) Removal of leaven; (b) to abstain from eating it; (c) preventive measure against economic loss; (d) preparation of unleavened bread; (e) when to eat it.

(a) The leaven must be removed before the forbidden time of eating it is approached. The offering of the Pascal Lamb was ordered to take place on the fourteenth day, and it was forbidden to eat leaven before offering it, or to offer it while the leaven was still about the premises. (Deut. xvi. 3; Exod. xxiii. 18.) The inference, therefore, is that the leaven must be removed before the afternoon of the fourteenth day. The established rule is to have every place about one's house cleaned of everything leaven on the evening preceding the fourteenth day, when the inspection of the premises takes place. Leaven is anything in the nature of food or drink which is made of or partly contains millet, wheat, rye, barley, or oats. In diaspora it was accepted to include in leaven all other grain and the genius pisum, or Kitniyoth. Removal means the actual destruction of every form of leaven before the afternoon of the fourteenth day. It is the custom to burn some of the crumbs of leaven which were gathered on the preceding night during inspection, or Bedikah.

(b) Eating is interpreted to include any particle of solid, or any drop of liquid, either of pure or mixed leaven, even when such particle or drop chances to be in a large quantity of otherwise permissible food or drink. For example, one grain of rye, or oats, or barley, or millet, or wheat, if it be found in a pot wherein a whole dinner was being prepared, will render all of it forbidden food during Pesah. In the first four hours during the morning of the fourteenth day of Nissan the eating of leaven is permitted. Later than that everything which is considered leaven must not be eaten, or even seen, in one's own premises till the end of Pesah.

(c) Not alone is leaven forbidden food or drink during the Pesah, but if it remained in Jewish ownership and premises during the Pesah, it

is forbidden food or drink even after Pesah. It can not be sold or exchanged for anything of value. Leaven must not be eaten, seen, or found in one's premises. It must be destroyed entirely. But in this the Rabbis have improved upon. Leaven must be the property of an Israelite in order to come under the rigor of the law. If it is the property of a non-Jew, it is not at all subject to the laws of leaven on Pesah. To prevent a possible economic loss of great magnitude, it was enacted that a sale to a non-Jew of all leaven, of even a whole community, will be a good preventive. Accordingly, a form of sale of all leaven and the immovables in which it is stored was authorized. The sale is a formal one, with a consideration, and subsidiary conditions, chief among them being the one dealing with the right-of-way of the vendors. As collateral security, the vendors retain a hypothec on everything disposed of, the fact being that one can not violate the laws of leaven by being the owner of incorporeal property notwithstanding that such right of property is derived from a former ownership of leaven. The clause of *resolutoire* in the conveyance is made to be operative immediately after the lapse of the Pesah, thus making it impossible for any unpleasant litigation with an insincere purchaser.

(d) The unleavened bread, or mazoth, can be made of five kinds of grain only, viz.: wheat, rye, oats, barley, or millet. All other kinds of grain are disallowed for Mazoth Mizvah. The grain must be harvested dry. The water used for making the dough must not be gotten from the river or reservoir during the day. The custom is to get the water after sunset, and keep it in buckets or a special reservoir during the night. The reason being that water, in its original place, is of a higher temperature mornings and it may cause the dough to leaven before it comes to the oven. From the time of making the mixture till the Mazoth is put in the oven very little time (some limiting it to but five minutes) must be consumed. No salt must be used in the dough. Only flour and water. Great care is recommended in obtaining Mazoth for Pesah, particularly as to the methods employed in baking.

(e) The commandment to eat unleavened bread makes it obligatory only on the first, or Seder, night. During the rest of the Pesah the eating of it is voluntary. No leaven is permitted to be eaten, but one may have his choice of food which is not leaven.

(8) "In the first day is an holy convocation; (9) ye shall do no servile work therein; (10) in the seventh day is an holy convocation; (11) ye shall do no servile work therein." (Lev. xiii. 7-8.)

Because of following the lunar system for the months and the solar system for the years, there was always an uncertainty as to the month of Nissan.* It was therefore ordered that two days instead of one shall be observed in diaspora. Therefore, the first and last two days are holy convocations. No manner of labour is permitted, save only cooking, heating and lighting, or carrying necessary things from one premise into another. The interval are semi-holidays, or Hol-ha-Moed.

The services of Pesah are ushered in with Maarib, in which the Amidah of the Three Festivals, with special references of the day, is delivered. After which comes the Seder, the most important home service in the Jewish religion.

At every morning service during Pesah special selections are read from the Torah, each selection being divided into five Aliyoth, besides the Maphtir, on the first and last two days; and into four Aliyoth during the Hol-ha-Moed. The selections read are as follows: First day, Exod. xii. 21-51, inc.; Maphtir, Num. xxviii. 16-25, inc.; second day, Lev. xxii. 26-33, inc., and Ibid. xxiii.; Maphtir as on previous day; third day, Exod. xiii. 1-16, inc.; fourth allotment, Num. xxviii. 19-25; fourth day, Exod. xxii. 24-30, inc., and Ibid. xxiii. 1-19, inc.; fourth allotment, as on previous day; fifth day, Ibid. xxxiv. 1-26, inc.; fourth allotment, as on previous day; sixth day, Num. ix. 1-15, inc.; fourth allotment, as on previous day: sev-

* See infra New Moon, Intercalation.

enth day, Exod. xiii. 17 to xv. 26, inc.; Maphtir, as fourth allotment on previous day; eighth day, Deut. xv. 19 to xvi. 17, inc.; Maphtir, as on previous day.

The first day of Passover, according to the lunal calendar, can fall on a Saturday, Sunday, Tuesday, or Thursday. If the first day falls on a Thursday, the reading of the Torah on Hol ha-Moed is changed as follows: third day, Exod. xxiv. 1-26, inc.; fourth day, Ibid. xiii. 1-16; sixth day, Num. ix. 1-15; the fourth allotment as when Pesah falls on other days.

(12) "And thou shalt shew thy son in that day, saying: This is done because of that which the Lord did unto me when I came out of Egypt." (Exod. xii. 8.)

Liberty, under organized society, is the foundation of civilization. The economic, educational, moral, sociological, scientific and political development of a State is commensurate to the degree of liberty enjoyed by its individual members. Liberty is the first necessity of the human being. The bread of the slave is not a source of vitality; it is only a prolongation of misery, a stay of execution. We learn to know this by experience and by observation. The experience of a nation is mirrored in its history. From the fragmentary chapters of a people's history comes forth a cohesive philosophy which forms an undercurrent for a biological stream of succeeding generations. No people could sever its connection with its tradition and claim to be what it is, unless it proclaims itself savage and wishes to be designated as such. And it is more than the sense of pride which prevents such conduct. The force of evolution in humankind is as strong as the force of nature is in metamorphizing larva. A nation may rise and decay, but it will not be the fault of its Maker, if it does decay. It is within its powers to continue on an onward course. There is no more predestination for a whole people than there is for an individual. Nations, like individuals, may vary in physical strength and in mentality,

but the proportional functioning of the organic total is regulated by the will power of either the nation or the individual.

In order to secure the perpetuity of a nation, its course must not be interrupted by any of the destructive elements. A nation might be destroyed by losing its territory, its language, or its political independence. Assimilation, absorption and dispersion are slower but surer elements of destruction. Very few races have survived after they were forced out of their native soil. Nearly all ancient races are found on, or near, their original territories. The ancient races which were forced out of their lands were lost, and no trace was left after them. The difficulties ethnologists encounter in tracing the nativity of primitive races establish beyond a peradventure that nations are lost just because of the reasons advanced.

According to all these rules, there should not have been left a trace of the Jewish people. They suffered the loss of their land, of their language, of their political freedom; they suffered dispersion, expulsion, forced assimilation and absorption, and, notwithstanding all, their existence is a certainty. Moreover, there are numerous reasons which sustain the contention of Jewish patriots that without a common government, territory, language, or political system of organization the people of Israel must be numbered among the living nations. Such phenomenon is nothing short of the miraculous.

But, after a close analysis, we trace quite clearly natural reasons which are in accord with all biological principles. The birth of the Jewish people, its very dramatic appearance among the family of nations, was unique. It was born a mental giant. Two centuries of slavery and privation hardened its constitution, and made it ready to follow advanced leadership. Liberty was the foundation of the new culture entrusted in its care. A whole system of laws was handed to it at one time, without being forced to suffer ages of lawlessness. The religion given to it was not a compromise between Heathenism and Paganism. The whole being

a fountain of eternal youth and love of life. And, as the generations rolled on, its leaders continued to safeguard its existence by fortifying the spiritual center, the Torah, with indestructible material. Before a possible enemy could attack one commandment of the Torah, he must first conquer all defensive works built around it by generations of skilled patriots.

Thus, when we behold the background upon which the great scene of Israel's entrance upon the stage of history was painted, when we see how wonderfully it all was preserved throughout the ages; when we witness the sight of the Seder, how after many generations of serfdom father and son alike are inspired with the hope of liberty, we must arrive at the conclusion that the only source of vitality, the real secret of the perpetuity of the Jewish race, is in the Torah.

The Hag ha-Herut is a study in the philosophy of Jewish history. It is then that the indestructibility of the followers of the Torah asserts itself with all the powerful manifestations of biological evolution. The Torah has created a spiritual community, an intellectual unit, out of a myriad fragments, scattered throughout the five continents. And at no time in the year does this fact manifest itself more than on the Feast of Liberty.

Bread of Affliction, Four Goblets of Wine, Bitter Herbs—all tell the wonderful story of slavery and liberty, of suffering and hope, of martyrdom and deliverance, of despair and determination.

And the wonderful lesson Pesah, the Exodus, the slavery, Pharaoh, and the triumphant delivery convey to the individual, or nation, in a spiritual sense! The whole story being interpreted as figurative speech; Pharaoh as the Evil in man; Israel as the soul, Egypt as the body, Moses as the Good in man, and the final triumph of the Good over the Evil!

And all these as an introduction to the Revelation upon Sinai.

(13) "And ye shall proclaim on this self-same day that it may be an holy convocation unto you; (14) ye shall do no servile work therein." (Lev. xxiii. 21.)

The Feast of Weeks is an holy convocation. No kind of labour is permitted, save only cooking, heating, lighting, or carrying necessary things from one premise into another. The festival is in commemoration of the Revelation upon Sinai.

It is also known as the Feast of Firstfruits, in commemoration of the first ripe fruit brought as an offering in the Temple on that day.

From the second day of Pesah, which is the sixteenth day of Nisaan till the sixth day of Sivan, the anniversary of Revelation, elapse seven weeks. Therefore was the festival named Hag ha-Shabuot.

The festival is ushered in with the Maarib, the Amidah being the one of the Sholosh-Regolim, with special mention of the sacredness of the day. During the morning the Musaph of the Three Festivals form part of the service.

The sections of the Torah read after Shaharit are as follows: First day, Exod. xix. 1. and the whole of Ibid. xx.; Maphtir, Num. xxviii. 26-31, inc.; second day, Deut. xv. 19 to xvi. 17, inc., except when it falls on Sabbath, when the reading begins Ibid. xiv. 22; Maphtir, as on preceding day.

In diaspora the festival is observed two days.

Up to the Revelation, the commandments known to the then civilized world were seven in number, viz.: (a) belief in God; (b) idolatry; (c) murder; (d) incest; (e) live flesh of beasts; (f) right of property; (g) laws pertaining to such right. (Noahin Commandments.)

The Ten Commandments are: (a) I am the Lord thy God; (b) Thou shalt have no other gods before me; (c) Thou shalt not take the name of the Lord thy God in vain; (d) Remember the Sabbath day, to

keep it holy; (e) Honour thy father and thy mother; (f) Thou shalt not kill; (g) Thou shalt not commit adultery; (h) Thou shalt not steal; (i) Thou shalt not bear false witness against thy neighbor; (j) Thou shalt not covet.

(15) "Ye shall dwell in booths seven days." (Lev. xxiii. 42.)

(16) "On the first day shall be an holy convocation; (17) ye shall do no servile work therein. (18) On the eighth day shall be an holy convocation; (19) ye shall do no servile work therein." (Ibid. 34-36.)

Sukkot is on the fifteenth day of Tishri. The first and the last two days, in diaspora, are observed as holy convocations. No work is permitted, save cooking, lighting, and heating, as well as carrying necessary things from one premise into another. There is an interval of five semi-holidays, the fifth one being ho-Shanah Raba.

The dwelling in Booths is obligatory only when the weather is not injurious to one's health. An unusual wind, frost, or rain are reasons to exempt one from dwelling in the Sukkah.

The Sukkah is a temporary booth, constructed of and covered with any material which may be classed as either an agricultural or horticultural product.

Sukkot is entirely an agricultural holiday. It is named Hag-ha-asiph. Harvesting during the Palestinian era was an occasion of great joy in Israel. Here again we witness the phenomenon how a people lives in the shadows of a dead past and actually lives through it, and rejoices with the memory still fresh in its mind. It is a form of reward for keeping history alive. Even the prayer for rain, on the eighth day is continued. It is the real ray of hope for a restored physical Zion.

The festival is ushered in with the Maarib prayer, the Amidah being of the Sholosh-Regolim, with special reference of the day. Musaph is recited, with reference to the occasion of joy.

The reading of the Torah is as follows: First two days, Lev. xxii. 26 to xxiii.; Maphtir, Num. xxix. 12-17, inc. During Hol-ha-Moed: first day, Ibid. xxix. 17-25, inc.; fourth allotment, repeat Ibid. 17-22; second day, Ibid. 20-29; fourth allotment, repeat Ibid. 20-26; third day, Ibid. 23-31; fourth allotment, repeat Ibid. 23-29; fourth day, Ibid. 26-34; fourth allotment, repeat 26-30; Hoshanah Raba, Ibid. 26-34; fourth allotment, 29-34. If one day Hol ha-Moed falls on a Sabbath, Exod. xxxiii. 12 to xxxiv. 26, inc.; Maphtir, if first day, Num. xxix. 17-25; if second day, Ibid. 20-29, etc.

(20) "And ye shall take you on the first day the fruit of goodly trees, branches of palm trees, and the boughs of thick trees, and the willows of the brook." (Lev. xxiii. 42.)

The fruit of the goodly tree is the Ethrog; the branches of palm trees are the Lulab; the boughs of the thick trees are the Hadasim; and the willows of the brook are the Arabit.

The Sukka and the Four Kinds are more than ritualistic symbols, or articles of ceremony. The Sukka is the emblem of temporariness, the token of insecurity. It really illustrates the life of a wanderer. It was ordained in commemoration of the booths in which the people of Israel lodged when they wandered through the wilderness. It is symbolic of the history of the Jewish people. For centuries the life of the Jew was the life of a wanderer, with all his belongings in portable condition. Nevertheless, Sukkot is a festival of joy. The optimism of the Jews springs forth from a fountain of hope. Where every natural indication seems against them, their faith in a special Providence comes to the rescue. Unusual winds, rain, snow, or cold may chase them even from the Sukka, but the comforting idea is that it will not go on that way forever.

The Sukka is also the token of life itself, as it is among the generations of men. Life is but temporary, subject to all ills, and uncertain as to when its end will come. The soul is but a visitor upon earth. Gener-

ations are but wandering and vanishing shadows, as the shadows of birds in their flight. Perhaps, due to what the Sukka reminds, it was ordained that the Book of Ecclesiastes shall be read during the festival.

The four kinds of plants, too, have their moral significance. The Ethrog, the Lulab, the Hadat, and the Arabah—might they not symbolize the scholar, the artistocrat, the merchant, and the toiler? The people of Israel was charged to bind the Four Kinds together, and rejoice with it, before the Lord. Would it not be a joy to mankind to unite all elements of society for its own welfare, for its own safety, for the good of life and the living?

The commandments of the Torah must be observed whether we find a reason for them or not; but the best reason is found in Israel itself. The Torah is the sole source of its culture, and it survives even the very instruments which were directed against it to destroy it.

CHAPTER IV

ראש חודש, חנוכה, פורים, תענית, מצות דרבנן

THE LAWS CONCERNING THE SANCTIFICATION OF THE NEW MOON ARE BASED UPON ONE MANDATORY COMMANDMENT; ALSO CONCERNING MINOR FESTIVALS, AND FAST DAYS, AND THE SEVEN RABBINICAL COMMANDMENTS

(1) "This month shall be unto you the chief of months; the first shall it be unto you of the months of the year." (Ex. xii. 2.) "Observe the month of Abib." (Deut. xvi. 1.)

The months are lunar but the years are solar, in the Hebrew reckoning. To establish the equalization, intercalation became a necessity. The solar year is longer than the lunar year with 10 days, 21 and 240/1080

hours. When about thirty days accumulate, a month is added, in order to equalize the lunar with the solar year.

Moses transmitted the secret of intercalation to his successor, and so it came down through the generations till Hillel II made the secret public. At first the only means employed to establish both the New Moon and the month Abib was observation. Then observation was aided by calculation, till finally the whole science was established upon calculati

Because the year is solar, the only month possible to add is Adar, so that the Passover will be in the month Abib. Otherwise the Passover might be some time during the spring and some time during the winter.

The equalization between the lunar and solar years comes about once in nineteen years, by adding seven extra months during that cycle. In twenty-eight solar years there takes place an equalization of the hours and days of the week, which is identical with the common year in vogue among the modern nations. During thirteen lunar cycles, or once in 247 years, there takes place an equalization of the number of weeks. Thus. from the very appearance of the Jewish people they were charged to know the planetary system, and learn from it the wonderful works of God. It was for this reason that the New Moon was established as a festival during the Palestinian days. In diaspora the New Moon is graced by an additional prayer, to commemorate the additional offering in the Temple, and by reading selections of the Torah.

The selections of the Torah read on the New Moon are: Num. xxviii. 1-15, inc., divided into four Aliyot. The second Aliyah begins wth Ibid. 3, which is a partial repetition of the first. If the New Moon falls on a Sabbath, part of Ibid is read as Maphtir.

The other festivals which were ordained by the Rabbis in commemoration of historical events are: (a) Hanukah and (b) Purim.

(a) The downfall of Greece was a signal for Syria to crush Judaea and prevent it from becoming a valued ally to Rome, which was then attracting to itself small nations in order to effect its policy of Imperial-

ism. The plan of the Syrians was put in concrete shape soon after it suffered defeat in Egypt at the hands of Rome. Antiochus Epiphanes—or, more correctly, Epimanes (madman)—laid his plans to ruin Judaea by striking at the soul of Judah. The climax was reached when, in 3592, his armies entered Jerusalem, plundered its inhabitants, defiled the Temple, and killed thousands of innocent lives. In Modin, a town near Jerusalem, lived Mattathias, the Hasmonean, and his five sons: John, Simon, Judah, Eleazar, and Jonathan. To this Hasmonean family the fearless manhood of Judaea flocked, and engaged the enemy on the battlefield. Victory followed victory, until on the twenty-fifth day of the month Kislev in the year 3592 (169 B.C.E.), the whole of Palestine was rid of the Syrian hosts. The Temple was purified, and, looking for unpolluted ointment, a small cruse, sealed with the seal of the High Priest, was found hidden beneath the floor of the Temple. Ordinarily such cruse of ointment could not have supplied the Menorah for eight successive days; but it did, miraculously. The festival was therefore named Hag ha-Norot. It is also known as the Hag ha-Makbim. That Hasmonean family adopted as a motto upon the flag of the army the words of "Who is like unto Thee among the mighty, O Lord?" (Exod. xv. 11), the Hebrew initial letters of which are M. K. B. I. The family subsequently took the surname of Makabi, with Judah as the central figure.

Hanukah is specifically a national festival, but throughout the years of exile its significance was interpreted mostly on religious ground. And wisely so.

The Hanukah candles are sacred. No work must be performed by their lights. The candles are lit as follows: The first night, one; the second night, two, adding one candle each night, till on the last night eight candles are lit. The festival is eight days in accordance with the law of the dedication of Tabernacle, which lasted eight days.

Every day of Hanukah, selections of the Torah are read as follows: Num. vii. 1 to Ibid. viii. 4, inc., adding each day two Neshiyim. The sixth day always being the New Moon of Tebet, four Aliyot are read, three pertaining to the New Moon, and the fourth to Hanukah. If the seventh day of Hanukah happens to be the second day of New Moon of Tebet, the same rule is followed, only the Nashi is that of the seventh day Hanukah.

(b) Purim is founded upon the Book of Esther, which, like the Torah itself, will ever be read, even after the restoration of Zion. The reading of the Megilah is obligatory, being one of the mandatory commandments enacted by the Rabbis. It is entirely a festival of joy. The distribution of alms among the poor is also obligatory. The Torah is read during the morning from Exod. xiii. 8-15, inc.

As was pointed out, Judaism does not tolerate the idea of multiplying physical pain for the sake of pleasing God. Nevertheless, the national consciousness of the people of Israel has asserted itself through the persistent efforts of the Rabbis to keep alive the scattered fragments as a living unit. Particular care was taken to keep the Jewish history alive, and transmit it from generation to generation without lessening any important feature. The best method was to keep it alive in the synagog. However, the greatest of all calamities were already commemorated by the last prophets.

Besides the Day of Atonement, there are five fast days during the year, four of which were instituted immediately after the destruction of the First Temple. They are: On the third day of Tishri, Zom Gedaliah; on the Tenth day of Tebet; on the seventeenth day of Tamuz; on the ninth day of Ab.

Zom Gedaliah: Before the destruction of the First Temple, on the morrow after Rosh ha-Shanah, Ismael ben Nethania killed Gedaliah ben Ahikam, the prophet and priest, in the Temple. It was a great tragedy

and a reason to hasten the destruction of the remnant of Israel's scattered forces. To atone this crime, a fast day was ordered.

Asarah be-Tebet: On the tenth day of Tebet, Nebuchadnezzar besieged Jerusalem, which was but little garrisoned or provisioned.

Shibah Asar be-Tamuz: The seventeenth day of Tamuz is a fateful day in Jewish history. On that day Moses broke the Two Tables, the daily offering, Karban Tamid, ceased in the First Temple, Jerusalem was broken open before the destruction of the Second Temple, the Torah was burnt, and an idol was placed in the sanctuary.

Tisha be-Ab: The ninth day of Ab, too, is a fateful day in Jewish history. On that day the decree that the generation of the wilderness shall not enter Palestine was pronounced; both of the Temples were destroyed; the City of Bether was razed to the ground, and the last defence of Israel was gone; and the sanctuary was ploughed through with ploughs.

These four fast days will be turned into festivals of joy, according to the promises of Zechariah (viii. 19).

The fifth fast day is on the thirteenth day of Adar, the day before Purim. Taanit Esther is founded upon the Megilat Esther.

All these fast days, if they fall on a Saturday, must be postponed till the day following. Tisha be-Ab was ordered to be as much a fast day as Yom ha-Kipurim, save only in reference to work. No food or drink is permitted from sunset to sunset.

The reading of the Torah on all fast days are: Exod. xxxii. 11-14, inc., and Ibid. xxxiv. 1-10, inc.; during the afternoon, the third Aliyah is called maphtir, and Isaiah iv. 6 to lvi. 8, inc., is read. Tisha be-Ab: Morning, Deut. iv. 25-40, inc., the third Aliyah is maphtir, and Jeremiah viii. 13 to ix. 23, inc., is read; during the afternoon, the same as on other fast days.

On Tisha be-Ab during the morning no Talit or Tephilin is permitted to be put on. These are put on during Minha.

In all, there are seven commandments which are of post-Biblical origin, namely: (a) To give thanks to God in return for everything we enjoy in life; (b) washing the hands before mealtime; (c) to light the Sabbath candles; (d) to establish common domicile for the purpose of carrying on Sabbath from one premise into another; (e) to read the Thanksgiving prayer, Halel, on the Sholosh Regolim, New Moon, and Hanukah; (f) to light candles on Hanukah; (g) to read the Book of Esther, Megilah, on Purim. All these have the force as if they were commandments of the Torah.

Thus we have noted that the *Semanim*, the times of the year, were so arranged as to remind us during every season of the year that the minutes, hours, days, weeks, months, years, small cycles and big cycles, as well as the whole purpose for which Time exists, is not to witness the few things our span of life affords and then disappear in oblivion. The privilege of being upon earth is for the purpose of gaining by our spiritual efforts, the bliss which is in Olam ha-Ba, the life which is Eternal.

BOOK III

ספר שלישי

קדושה — נשים — הפלאה

CHAPTER I

שחיטה

THE JEWISH METHOD OF SLAUGHTER IS BASED UPON ONE MANDATORY COMMANDMENT

(1) "Then mayest thou kill of thy herds and of thy flocks, which the Lord hath given thee, as I have commanded thee." (Deut. xii. 21.)

The details concerning the method of slaughter were given to Moses upon Sinai. The specific method inaugurated by Moses is based upon humanitarian principles. All scientific methods known to physiology are inferior to the method ordered in the Wilderness. This is said, with the legal and scientific approval of the most distinguished physiologists and jurists, of both the European and American continents. Veterinary pathology and physiology, both, might advance yet a thousandfold, but neither could point out a better method of slaughter which would surpass the Jewish method from the viewpoint of either hygiene or humanity.

The Sinaitic laws concerning the method of slaughter are divided in two branches. They are: (a) the instrument; (b) the organs to be severed and how to sever them to bring about instantaneous unconsciousness.

(a) The instrument must be of a minimum length twice the width of the throat of the animal, or fowl, to be slaughtered. It must be sharp

and smooth, without the least trace of a notch, perceptible either to the eye or the nail-test. It must not be rusty. Before and after slaughtering, the Shohet must examine the Haloph, and ascertain that it has none of the defects which might render it Posul (disqualified). The nail-test is employed for that. The index finger-nail is put upon the sharp side of the Haloph, and moved up and down gently, when the least perceptible notch will be detected. The hands of the Shohet must be neither cold nor tired.

(b) The trachea and gullet must be severed. Along with these the carodits and other blood-vessels are cut. In order to obtain the desired results, viz., instantaneous unconsciousness, the Shohet must look out for any possible error in slaughtering. He must move the Haloph to and fro. The movements must be without undue pressure. The result is usually obtained by two movements—fro and to—the whole taking but a fraction over a second to accomplish. The Shohet must look out against five different errors in slaughter. They are: (a) Delay, or the least interruption during the cutting of the organs; (b) undue pressure, or striking with the Haloph on the neck; (c) digging in the Haloph between the carodits, or covering it with any cloth, or under the hide of the neck; (d) slipping the Haloph, either too near the body, just below where the upper lobe of the lungs reaches when inflated, or where the pleural cavities begin, or too near the head, touching the pharynx; (e) tearing out of place either the trachea or the gullet, or when either of the jugular veins are out of place, or any rent therein as a result of a notch in the Haloph. If any of these errors happen, the animal or fowl is Nebolah, just as if it was not slaughtered at all. These Five Laws of Shehita are of Sinaitic origin, received orally by Moses.

When none of the defects, or errors, take place before or during the slaughtering, the animal is considered properly killed, or Kosher.

Slaughtering of animals for human food was permitted only during the post-deluvian period. It appears that the first intention of the Maker was to have men live on a strictly vegetarian diet. The very earliest pe-

riods of Jewish history are marked with humanitarian conduct toward the lower animal kingdom. All prohibitive laws concerning animals were not based, as among other ancient races, on idolatrous grounds. But it is clearly established that the ancient Hebrews knew, and perhaps were the first among men to know, that animals feel and suffer pain. It was to that end that Shehita was instituted. The Shehita produces no pain because unconsciousness comes almost instantaneously. It is therefore more humane than any other method invented by even the most modern physiologists.

It has been demonstrated that the Jewish method of slaughter produces a triple result: (a) Prevents cruelty to animals; (b) produces meat superior in quality from the viewpoint of hygiene; (c) prevents economical waste.*

(a) By severing the carodits and other blood-vessels, unconsciousness must be instantaneous, for the blood supply to the brain is cut off, and insensibility must follow the paralysis of the brain. This is because the blood pressure in the cerebral vessels, which are known to anatomists as the "circle of Willis," falls to zero with extreme rapidity after both carotid arteries and both jugular veins have been severed. Consciousness is not compatible with blood pressure fallen below a certain point, the cortex cerebri being exceedingly sensitive to loss of blood, or reduced blood pressure. As is seen when a person faints or becomes unconscious from the heart intermitting a few beats. Similarly the rapid reduction of blood pressure, as is the case in the animal slaughtered by the Jewish method, causes insensibility within a second or two, and this state of fainting passes into final death of the brain. After the severe hemorrhage, due to the cutting of the vessels in the neck, takes place, all the organs of the body, save only the brain, live for a time. The heart lives for some minutes and continues to pump blood out of the open carotids. The spinal cord lives long enough to be irritated by the loss of its blood. In

* More recent at the Halifax Shehita Trial, Rex vs. Levitt, June 17, 1913.

consequence of this stimulation, it sends out violent impulses to the body and limb muscles, which are still alive, and a convulsion is set in. But these convulsions do not depend on consciousness, although they may appear purposeful. They are performed after the manner of reflex actions, and are no evidence of consciousness, seeing that the brain is already unconscious and the spinal cord possesses no consciousness. The corneal reflex, too, can go on as a reflex action, irrespective of the pres ence of consciousness. Although certain reflex actions are accompanied *by* consciousness, they are not due *to* consciousness, and can occur in its complete absence. The momentum gathered might drive an engine quite a distance after power was checked completely. A rooster without a head might jump about the yard. It is reflex action with a complete absence of consciousness. The spinal cord by itself—that is, after being severed from the brain, or after the brain is anæmic and therefore unconscious—is not the seat of consciousness. This is the essence of the Jewish method of slaughter. Besides, it is the only means whereby so much of the blood is got out of the body, especially of the muscles of the flesh. Thus, of all methods, even that of chloroform, the Jewish method of slaughter is most humane.*

(b) The copious and much more rapid escape of blood and the epileptiform convulsions appearing toward the end of the bleeding cause in the body of the slaughtered animal the development of lactic acid, which, combining with potassium phosphate, transforms the latter into potassium tartrate and dihydrogen potassium phosphate. Dihydrogen potassium phosphate impedes the development of micro-organisms and the formation of the products of putrefaction, such as ptomaines and other poisonous substances, and considerably improves the taste of the meat.

The epileptiform convulsions render the blood that is still left in the meat less alkaline, and diminish, therefore, its properties as a nutrient

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* Testimony Rex vs. Levitt by Professor D. F. Harris, great physiological authority in Canada and by the author.

medium for bacteria. The epileptiform convulsions render the meat more tender and give it a better appearance.

(c) The early onset of rigidity makes the meat fit for use sooner than any other sort of meat. The decomposition is delayed, and the meat even in summer remains two to three days longer fit for use. There is a much smaller quantity of blood and water in the meat, and the buyer is not imposed upon.*

Thus, from a physiological, hygienic, and economic viewpoint, the Jewish method of slaughter is superior to any method invented by modern science.

The scientific demonstrations, while mainly based upon Rabbinical doctrines, are late productions, and now form not only part of veterinary science but even a chapter of international jurisprudence.

Indeed, an ancient law such as this, which has withstood the scientific and legal attacks of a great part of the civilized world, must trace its origin to divine inspiration.

CHAPTER II

טריפות

THE LAWS OF MEAT INSPECTION ARE BASED UPON ONE MANDATORY COMMANDMENT

(1) "And flesh that is torn of beasts in the field, shall ye not eat." (Exod. xxii. 30.)

Trefah is here translated "flesh that is torn of beasts." But the meaning implied in the original is not that the victim died of the attack; for the commandment prohibiting the consumption of Nebelah is given in Deut. xiv. 21. Trefah, as interpreted by the Talmudists, means: Flesh of a ruminant, or of the clean group of fowl, which suffered an attack of a wild animal, or bird of prey, but which had not died as a result of the attack. Accordingly, any animal, or fowl, which after being properly

* Testimony Rex vs. Levitt by the Author, Bibliography, Hulin, yad, Shehita, Dr. Dembo.

slaughtered is found to have traces of violence or disease which would have terminated in its death, is Trefah. During the pastoral age, the most frequent sickness of domesticated animals consisted of fractures, internal disruptions, dislocation of joints, etc., resulting from attacks of wild beasts. And, as all Mosaic laws were timely as well as permanent, the Torah employed the language of the age.

Meat in some form is indispensable for the majority of human beings in order to be able to preserve the normal functioning of their organism. Physical degeneration, effeminate habits, and lack of energy are results of vegetarianism. Lack of meat will often produce atheromatous degeneration of the walls of the blood vessels. According to Gen. ix. 3, man became omnivorous during the post-deluvian age. Meat eating was encouraged by the patriarchs, as appears from Ibidum xviii 8, and xxvii. 3. There is also a tradition that Jacob established meat-markets at Shechem.*

Discrimination against the flesh of certain animals is traced among the ancient peoples, but mainly on a religious ground in its most literal sense. The cow was not eaten by the Egyptians because it was the sacred animal of Isis. The Romans and the Greeks had some forms of meat inspection, particularly the latter, who disallowed flesh of a lamb which had not been shorn once. On the whole, it appears that meat inspection among the Europeans became more common with the progress of science.

Meat inspection among the Jews was primarily a result of an unbounded devotion to the laws of the Torah. Should modern science, for instance, disprove some of the contentions regarding results of some diseases which, according to the Talmudic laws, would terminate in death, the laws of Trefah would be binding nevertheless. Faith is above science. The reasons and causes of scientific conclusions are subject to change. Environment, breeding, nutrition and climate will bring about biological changes in every species. Therefore, science may be an agency to

* Sabbath 33. Midrash Rabah, Genesis 79.

strengthen Judaism, but not to destroy it. Besides, the ruminants vary organically from other animals, particularly in their respiratory system. Firstly, the lungs of the ruminants are more lobulated, and secondly the anterior lobe of the right lung receives its bronchus independently from the lower end of the trachea, which is in contrast with, for example, the horse. What might be fatal to the frog or rabbit might not terminate in the death of an ox, or vice versa, particularly when the pleural cavities are under consideration.

There were eight elementary forms of Trefah: (1) Loss of a limb; (2) perforation of an organ; (3) dislocation of the thoracic arteries; (4) fracture in vital part; (5) internal injuries resulting from a fall; (6) injuries resulting from an attack by a wild beast; (7) rent of a vital organ; (8) natural deficiency or duplicature of a vital limb or organ. In addition, the axiom, "Hamirah Sakanta me-Essurah," was a preventive against flesh of diseased animals.

But the method of inspection, like every other institution in Judaism, received an impetus during a thousand years of Talmudism. Since the days of Maimonides, however, the rules of inspection are uniform throughout the diaspora. The Shohet is also the inspector. He must be specifically trained for it. A full anatomical knowledge, particularly of the pulmonary and abdominal organs, is essential. He must not only be religiously conscientious but a very careful practitioner. His lack of knowledge, or care, might cause serious economic losses, especially in communities where the Jews are numerous. A long-established law requires the Shohet to be under the immediate supervision of the Rabbi. The Rabbi gives the diploma to the Shohet. No one is allowed to practice Shehita or Bedikah without having successfully passed an examination before a Rabbi, and without having in his possession a certificate to that effect.

In the newer communities, where constituted authority is still in the process of formation and where the office of Rabbi is still a matter of issue between the various factions, the meat problem continues to be a

source of social unrest, often with serious results. Possibly, the whole mass of discontent is due to the indifferent knowledge as to what Shehita and Bedikah mean. One wing of American Judaism discarded the laws of Kashrut entirely, perhaps for the sake of convenience. Between the ultra-reform and the ultra-radical elements in American Jewdom, Orthodox Judaism continues almost a closed book to the rising generation, most of which is composed of children of immigrants, who look upon Kashrut as a sort of ritual connected with ghetto-lyricism.

But it is not so. The laws of Kashrut form a vital source necessary for the sustenance of health and life of a people which looks far into the future. The decadent Romans were also against Kashrut. They endeavored to Romanize our fathers by forcing swine down their throats. And, historically, the Romans were the greatest swine-eaters among ancient men Plutarch, who resided for a time in Rome, wrote a treatise about the fondness of Romans for swine delicacies and urged upon them a course of moderation. A nation incapable of self-government must lose its independence. An individual incapable of self-restraint must enter the route of decay. Physical strength is not derived from the *quantity* of food one assimilates in his system, but from the *quality*.

It was pointed out in the preceding chapter that Shehita is necessary from the point of view of humanity, hygiene and economy. I shall point out presently that Bedikah is a scientific necessity.

For the purpose of inspection, the animal is anatomically divided into four grand divisions. They are: (a) External; (b) Cranium and cerebro-spinal; (c) Thoracic and pleural cavities; (d) Abdominal cavities.

(a) The external forms of deficiencies and diseases which render the animal Trefah are: (1) decayed skin, or that part of the skin which covers the cerebral line; (2) stiff-jointed, as a result of a fall from a height, at least of ten hands; (3) injured by wild animal of superior strength, such as an attack of a lion upon an ox, or a vulture on a hen; (4) lack of a hind leg; (5) duplicature of a hind leg; (6) rent in the flesh

covering the abdomen: (7) disease, fracture, or dislocation in the thigh, resulting in the destruction or mutilation of the circumflex arteries; (8) diseases or fracture in the thigh bone between the joint and knee-bone, resulting in the destruction or mutilation of the adductoral canals, femoral vessels, and genicular arteries; (9) tuberculosis in, or total absence of, the upper jaw and nasal cavities.

(b) The forms of Trefah in the cranium and cerebro-spinal system are: (1) decay of any of the fifteen parts of the crinum cerebrale, even without perforation of the dura mater, if the opening will be as large as a Hebrew Selah; (2) mutilation or fracture of the major part of the cranium cerebrale; (3) perforation of the arachnoidea; (4) liquidization of the brains; (5) severance of spinal cord; (6) or its mutilation; (7) fracture or dislocation of a cerebral joint.

(c) The forms of Trefah in thoracic and pleural cavities are: (1) perforation of the gullet, or the inner wall of the gullet, in that part which reaches the pharynx between the glosso-palatine and pharyngo-palatine arches; (2) its reversal of color, if the internal wall is red and the external is white; (3) perforation of trachea in the region of the thoracic duct; (4) dislocation of the jugular veins; (5) perforation of any of the bronchi; (6) mutilous bronchial tube: (7) perforation of any part of the membrane of the pulmonary organ; (8) block in any part of the lungs; (9) foul fluid; (10) discolored fluid; (11) pus; (12) liquidization of lungs, or of any part; (13) ink-black, flesh color, yellow, dark-gray, or brown; (14) more lobes on the left than on the right side; (15) deficient number of lobes or lobular lines, on either side; (16) additional lobe on the posterior of either side; (17) absence of lobes or lobular lines; (18) connection formed between lobes, or between lobe and ribs, or with the heart, or with the diaphragm, by means of a mucus membrane if, after removing such mucus membrane when the lungs are inflated there is an indication of the inner membrane covering the lungs or lobes having been perforated; (19) compression; (20) inflation; (21) solidity; (22) fissure

or chasmy; (23) perforation of the heart through to the hollow; (24) perforation of a valve or artery. It should be remembered that, as the Talmudic system of inspection was based upon the original eight forms of Trefah, the indications of presence of disease are given in conformity with the language employed in the original. Perforation, for instance, does not at all mean that it is perceptible to the eye, or that it was caused by violence. Any form of inflammation, or any trace of disease, is a reason for inflating the lungs and testing their soundness. If there is any escape of air, the presumption is that there was perforation.

(d) The forms of disease of the abdominal cavities are: (1) Total absence of the liver; (2) perforation or mutilation of the portal, suprarenal, or umbilical veins; (3) perforation of the spleen below the hilus line, where the blood-vessels are segregated; (4) perforation of the gall-bladder; (5) its total absence; (6) duplicature; (7) majority of ribs broken; (8) or dislocated; (9) any rib disjointed from the cerebral column; (10) extraordinary diminution of kidney; (11) mutilation; (12) presence of pus; (13) or foul fluid; (14) or discolored fluid; (15, 16, 17, 18 and 19) perforation of any of the viscera; (20, 21, 22, 23 and 24) total absence; (25, 26, 27, 28 and 29) duplicature; (30) exposure of part of viscera through the rectum, causing it to be contorted.

In all, there are seventy forms of deficiencies to be looked out for in the animal. In fowl there are two deficiencies which are not possible to find in an animal. They are: (1) change of color in the viscera as a result of having been overheated; (2) and the natural perforation of the skull found among water fowl.

The different forms of Trefahs are indications of the presence of the following diseases in the animal: Foot-and-mouth disease; cysticerci; parasites; tumors; tuberculosis; actinomycosis; echinococci; inflammation; endocarditis; hemorrhage; aspiration of blood and stomach contents; gelatinous infiltrations; pentastomes; osteo-myelitis, and many more dangerous diseases.

Science might question whether or not the animals might transmit disease to humans; it may even point to the great economic loss. But proper care of breeding, and good and sanitary stables, will reduce the number of diseased animals to a minimum. The result would be that the only forms of Trefah possible would be in its original sense—*i.e.*, "flesh which was torn of beasts in the field."

CHAPTER III

מאכלות אסורות, סימני טהרה, תערובות, בשר בחלב

THE LAWS CONCERNING FORBIDDEN FOOD ARE BASED UPON FOUR MANDATORY AND FIFTY-THREE PROHIBITIVE COMMANDMENTS

(1) "These are the beasts which ye may eat among all the beasts that are on the earth." (Lev. xi. 2.)

(2) "Every clean bird may ye eat." (Deut. xiv. 11.)

(3) "These of them may ye eat: The locust, etc." (Lev. xi. 22.)

(4) "These may ye eat, of all that are in the waters." (Ibid. xi. 9.)

The animal kingdom is divided into four sub-kingdoms: Vertebrata, Articulata, Mollusca, and Radiata. To the Vertebrata type belong mammals, birds, reptiles, and fishes, all these being distinguished for the general plan of structure, particularly the division of the body by a diaphragm, the thoracic cavity containing the vital organs and nerve centers, and the abdominal cavity containing the organs of assimilation and reproduction. The Articulata are known from the construction of their bodies, which are formed in rings, or joints, as the crab, lobster, insects and worms. The Mollusca have no internal skeleton, possess but a single cavity, and are incased in shell covering, from which nerves extend to the various parts of the body, the shell being double, as in the oyster, or single, as in the snail. The Radiata are the lowest form of animal life, being so called because their organs of sense and motion radiate from and around the centre, as in the star-fish, sea-urchin, jelly-fish, and pylop.

None of the species of the Mollusca and Radiata are among the clean group of the animal kingdom, and they all are forbidden food to the Jewish people.

Some types among animals form the clean group of the Vertebrata, and some types among insects form the clean group of the Articulata. And, as each sub-kingdom is in turn subdivided in types, classes, orders, families, genera, and species, the clean group of each sub-kingdom can only be identified by definite marks of distinction. To that end the clean groups of the animal kingdom, by eliminating the Mollusca and Radiata entirely, are narrowed down to four branches. (a) quadrupeds; (b) fowls; (c) fishes; (d) insects.

(a) The quadrupeds belonging to the clean group are all herbivora, ruminants, and cloven-footed, with a complete absence of teeth or incisors in the upper jaw. Three common families of these are known for their tameness. They are: The ox, the sheep, and the goat. Included among these are the entire genera of each respective group. For example, the ox is of the genera Bos, the species being designated as the Taurus of that genera; but the Bonassus, Bubalus, Arin, Caffer, Grunniens and Americanus are also included in the clean group. The same rule is applied to sheep; the Merino, Southdown, and Cheviot, too, are of one genera. And the whole genera of Cavicornia constitute the group of clean goats.

The seven species of the wild animals which belong to the clean group are members of the genera Capra, Rupricapra, and Cervidae. The wild animals of the three different genera, if the species are ruminants but otherwise not known, might be identified by their horns, which must be either forked, or notched with scales, or antlered, or, according to some authorities, pointed. The known species of these are: the hart, roebuck, fallow-deer, wild-goat, pygarg, antelope and chamois.

The tame and wild animals must be slaughtered separately, for the fat of the former is forbidden and the fat of the latter is permitted to be

eaten. In addition, the blood of the wild animals must be covered with earth.

All species of the clean groups and their offspring, even though such offspring should happen to be in the shape of a specie of the unclean groups, are permitted as food. However, if the issue of any of the clean animals will bear the shape of a fowl it is not permitted as food. The issue, regardless of shape, must be a quadruped. A cross-breed of a tame and wild animal is permitted as food, but its fat is forbidden, and its blood must be covered. Cross-breeding among the respective groups of the ruminants is effective. But it is not effective between ruminant and non-ruminant groups. This fact is pointed out as evidence for the theory of creation—that every type of the animal kingdom was created after its kind. The theory of evolution is brought forward to deny that everything was created separately. But Judaism never advanced the theory that the world is stationary, and that nothing in it is subject to chemical or other changes. What Judaism maintains is: that there is as much of the wonderful works of God in the pylop as there is in the highest form of the Vertebrata, but it denies that one is the offspring of the other.

(b) There is no clean group of fowl indicated in the Torah. Out of the whole winged type of the Vertebrata there are twenty-four different families which were forbidden as food, the implication being that all birds not included in those are of the clean group. But identification is the great problem. Accordingly, only birds which were traditionally known as non-members of the unclean groups may be eaten. Perhaps the reason for pointing out the unclean groups of the oviparous branch of the Vertebrata is the very high temperature of their blood, each red corpuscle having a nucleus, and thus more thoroughly oxygenated by means of air sacks distributed through the body, particularly among the birds of prey. Of among the non-preying birds, if such species (a) do not hold their food to the ground while eating, and (b) if they have a crop, or (c) have an additional (hind) toe, or (d) if the inside skin of the gizzard is

easily removed by hand, they are, according to tradition, not included in the twenty-four forbidden families. The genera known to possess these, or some of these identification marks are: (1) Rasores, or pigeon family; (2) Gallinae, or hen, grouse, and turkey family; (3) Anserinae, or geese, of which the Anser Ferns was the ancestor; (4) Anatidae, or ducks, of which the Mallard, or Boschus, was the ancestor. It is noteworthy that the goose family is spread into many genera and species. The old dispute about wild geese must here be decided in favor of Eybschutz, for he certainly referred to the Anser Ferns, which was the ancestor of the now domesticated geese.* Krachmal possibly believed that wild geese are one group, of one genera, or he referred to the Segetum or Gambelii genera, or to the salt water geese, which prompted him to forbid to use them as food.†

(c) From all that live in water only the species which have scales and fins are classified as the clean group. Fishes are the lowest forms of the Vertebrata, having only a single circulation of the blood, and that constantly in one direction through the single auricle and ventricle of the heart to the gills, whence, after oxygenation, it is distributed to the various parts of the system. Hence, the flow of the blood, which has large, oval, nucleated globules, is less rapid, its oxidation longer delayed, and its temperature lower than in any higher order of the Vertebrata. Most of the clean fishes have a full complement of fins—*i.e.*, pectorals, ventrals, dorsals, anal, and caudal. But a single fin, if the species are known to be squamous, is sufficient. The fins are the instruments of locomotion, but the caudal fins serve the purpose, in the absence of any of the others. The air-bladder, developed as an off-shoot of the gullet, enables the fish to rise or sink in the water by decreasing or increasing its weight as compared with water. And, as fish is cold-blooded, the temperature depending upon exterior influences, Nachmonides was right * in maintaining that

* See Krethi U-plethi, 82.
† M. M. Krachmal in Zemach Zeddek, 29.
* See his commentary on Leviticus XI.

the clean groups of fishes were permitted because of the air they get freely by rising to the surface. Ordinarily, the needed oxygen is obtained from the air which is mingled with the water. The circulation being slow, and the water of a low temperature, the fishes that lie in the deep waters are certainly not a wholesome food.

(d) Of the sub-kingdom Articulata only the insects belonging to the order Manducata, and of only the genera Caloptenus Spretus of that order, are permitted as food. To this group belong several different species of locusts. It is the highest form of animal among the Articulata, having a thick, hard, external crust as a protection for the internal parts, and broad, solid jaws with cutting and grinding edges. Its great power of flight is due to the air-sacks distributed through the body, by which it can be made of nearly the specific gravity of the air. The traditional marks of identification of the eight kinds of locusts mentioned in the Torah as proper food are three: (1) four legs; (2) four wings which cover most of the body; (3) hind jointed legs for jumping. Maimonides, as it appears †, identified both families, the Locustariae and the Acrydii, and found the clean groups of among them, by means of these special marks. The Acrydii, which have many species, the construction of which includes large heads, short and stout antennae, very strong hind legs, three jointed tarsi, and no projecting ovipositor among the females, seem to have been the traditionally clean group. But Maimonides identified also some species of family Locustariae which have the three distinct marks, although the shape of their heads is long and the females possess a projecting ovipositor.

Locusts are even now being eaten in many countries of the Orient, roasted, or fried in butter. They are also preserved in brine, or dried in the sun. But the Jewish people have for many centuries discontinued the use of locusts as a food, and the custom is now not to eat it at all, mainly because of the great difficulty in establishing the clean group, due to the

† Yad, Maaholot Asurot I. 22.

fact that for centuries the Jews have continued to live in countries where locusts fortunately are very rare.‡

Fishes and locusts need no special method of slaughter, the mere gathering in or catching them constitute the method best adopted to put an end to the life within them.

Thus far the clean groups of the animal kingdom and the identification thereof.

In giving an outline of what kind of food is forbidden, it must be remembered that the laws vary, and might be classified into three divisions: (a) food; (b) person; (c) place. For example, not to eat meat of a beast that died of itself, Nebelah, is a general law for all Israel, in all countries, for all times; the warning not to eat uncircumcised fruit, on the other hand, is a special law, forbidding to eat fruit during the first three years after a tree is planted. The law forbidding a convert, or an uncircumcised Israelite, to eat of the Pascal Lamb, is personal, both in aim and character. The law forbidding the Cohen to eat the pure first-born of the herd or flock outside of Jerusalem, depends solely upon the place. The law forbidding the Cohen to eat the flesh of a burnt-offering depends solely to what end a certain animal is utilized. However, for the purpose of making these laws clear, they were divided into general and special classes. Particulars concerning the laws touching sacrificial food are given here, by quoting the text of the warnings from the Torah and by making the text understood, because this chapter is intended to include all kinds of forbidden food.

(a) General. (5) "But these shall ye not eat." (Lev. xi. 4.)

This warning is against any kind of quadruped belonging to the unclean genera, even if some of them have one of the marks of identification, such as the camel, the hare, the rabbit, or the swine; the former three

‡ Taz, Yoreh Deah, 85.

belonging to the ruminants and the latter one to the cloven-footed group of quadrupeds, but all are of the unclean variety.

(6) "And these shall ye have in abomination among the fowls." (Ibid. xi. 13.)

This includes all fowls not having any of the traditional identification marks.

(7) "But all that have not fins and scales . . . of their flesh shall ye not eat." (Ibid. xi. 10-11.)

(8) "And every winged insect is unclean unto you; it shall not be eaten." (Deut. xiv. 19.)

This warning includes all species belonging to the different genera of Cheiroptera, such as the vampire, etc.

(9) "And every creeping thing that creepeth upon the earth is an abomination, it shall not be eaten." (Lev. xi. 41.)

This includes the whole order of reptila. Rodents, eight different kinds of which are enumerated in the Torah (Ibid. 29-30) are also classified as "creeping things," or Shrozim. But the eight kinds cover the whole order Rodentia.

(10) "Neither shall ye make yourself unclean with any manner of creeping thing that creepeth upon the earth." (Ibid. xi. 44.)

This includes the entire type of annulosa.

(11) "And whatsoever . . . hath many feet among all creeping things that creep upon the earth, shall ye not eat." (Ibid. xi. 42.)

This includes worms separated from the fruit or vegetables, or worms in the fruit or vegetables before it is picked from the tree or dug out of the ground.

(12) "Ye shall not make yourselves abominable with any creeping thing that creepeth." (Ibid. xi. 43.)

This includes all creatures in seas, rivers, or waters which do not resemble any fish, such as frogs, leeches, or sea animals, regardless of

their articulation in natural history, or similarity or dissimilarity in their anatomy, or size.

(13) "Ye shall not eat anything that dieth of itself, Nebelah." (Deut. xiv. 21.)

This includes any of the entire animal kingdom. Nebelah also is interpreted to mean flesh of an animal of the clean group which was properly slaughtered, or killed in any other than Jewish method.

(14) "And thou shalt not eat the life with the flesh." (Ibid. xii. 23.)

This forbids the cutting of a limb, or any part of a live animal and eating it. This also includes parts of unborn issue, or any of the abdominal organs, even if after cutting it the animal was properly slaughtered.

(15) "Moreover, ye shall eat no manner of blood." (Lev. vii. 26.)

This refers to blood of animals and fowls only. The blood of the clean group of fishes and insects is permitted to eat. The arteries and veins which are known as blood-vessels are forbidden on account of the blood they contain, and they must be removed before eating any meat. The blood of all unclean groups of the animal kingdom is forbidden on account of it being an abomination and unclean.

(16) "Every manner of fat, of ox, or of sheep, or of goat shall ye not eat." (Ibid. vii. 23.)

The fat in this commandment refers to the parts which cover the kidneys, the abdominal organs, and the flanks, but does not include the fat of the rump or of the external part of the animal. There are also some sinews and membranes which are forbidden to eat because of being fat. The established rule is to have all such arteries, veins, sinews and membranes, which are forbidden on account of being either blood or fat, removed by the butcher, or by a special authority, Menakor, before delivering meat to Jewish homes.

(17) "Therefore do the children of Israel not eat the sinew which shrank, which is upon the hollow of the thigh, unto this day." (Gen. xxxii. 33.)

This is the first known law concerning parts of the clean group of quadrupeds which must not be eaten. It includes the whole arterial sys-

* See supra, Method of Slaughter.

tem of the hind quarters of all quadrupeds which may be eaten. If the thigh of a fowl should be so rounded as to appear shrunk, the Rabbis declared it forbidden as a sinew that shrank.

The articulated arteries, vessels, veins, sinews and membranes which are forbidden either because of arterial blood or arterial fat are summarized as follows:

Besides the fat which covers the abdomen and the interior part of the flanks, there are five arteries in the flanks, three on the right side and two on the left, each of the right branching off in pairs, and each of the left in threes, all of which are forbidden as arterial fat. The veins and membranes of the spleen, the kidneys, and the flanks, too, are forbidden as fat. The arteries, veins, vessels and membranes of the heart, of the front legs, of the shoulder, of the lower jaw on both sides of the tongue, of the fat covering the viscera, of the neck where the vertebra ends and the cranium begins, and of the genitals, are forbidden as arterial blood. After slaughtering the animal there is still an amount of blood left in the flesh.* In order to get that out, the meat must be salted. The established rule is to have the meat first soaked in water for about thirty minutes, and then salt it on all sides, and left with the salt on for about an hour, when the last possible drop of blood will emit from it.

(b) SPECIAL. (18-19) "Thou shalt not seethe a kid in its mother's milk." (Exod. xxiii. 19.)

This warning is again repeated in Ibid. xxxiv. 26., and in Deut. xiv. 21. The inference being that the warnings include cooking or eating food consisting of a mixture of milk and flesh. There is no need for an extra warning not to enjoy of the proceeds of such food, for that is included in the warning not to eat it. Milk might be eaten before not after eating meat. The established rule is not to eat any milk-food during the three to six succeeding hours after eating flesh-food. Fish might be fried in butter, or boiled in milk, but not in fat, or together with meat.* Separate dishes for milk-food and flesh-food must be provided.

* About 28%. Dr. Dembo, Jewish Method of Slaughter, table V.
* On account of its injurious effect upon the digestive system.

(20-21-22) "And neither bread, nor parched corn, nor green ears, shall ye eat, until the self-same day, until ye have brought the offering of your God." (Lev. xxiii. 14.)

On the sixteenth day of Nissan, a measure, Omer, of barley was brought as an offering in the Temple. Barley was selected because it ripens earliest among the five kinds of grain. Before such offering was brought, no kind of new grain was permitted to eat. All grain which had taken root prior to the offering of the Omer were permitted to eat, notwithstanding that the ripening took place later in the season. But any grain which was seeded subsequent to the offering of the Omer, was forbidden to eat till the Omer was offered a year later.*

(23) "Three years shall it be as uncircumcised unto you, it shall not be eaten." (Ibid. xix. 23.)

This includes all edible fruit of trees planted in Palestine. The law forbidding the first three years' fruit of trees planted in diaspora is of Sinaitic origin. The three years are counted from the date of planting. Eating in this instance also includes profiting in any way from the proceeds of such fruit.

(24) "Thou shalt not sow thy vineyard with divers seed; that the ripe fruit of thy seed which thou hast sown, and the fruit of the vineyard, be not defiled." (Deut. xxii. 9.)

This law forbids the eating of fruit or grain, or roots of herbs, which were seeded in a vineyard, or any heterogeneous fruits. There are special rules as to what constitutes mingling of different kinds of seeds, but here the subject under consideration is only against eating such fruit. Profiting of mingled seed or fruit is also forbidden.

(25) "And they shall not profane the holy things of the children of Israel, which they offer unto the Lord." (Lev. xxii. 15.)

This law forbids eating of fruit or grain of which none of the portions to be deducted as an offering to God, to the priest, or the poor have been separated. Such is called Tebel.

* To encourage thrift among the farmers.

(26) "If an ox gore a man or a woman, that he die, . . . and his flesh shall not be eaten." (Exod. xxi. 28.)

This is interpreted as a warning not to eat of the flesh of an ox which was condemned by law to be stoned, even though it was properly killed, and inspected. For, it could not refer to a stoned ox; there would be no need for a special warning not to eat of its flesh, as it would come under the law forbidding Nebelah.

(27-28-29-30) "And grapes, fresh or dried, shall he not eat. All the days of his abstinence shall he eat nothing that is made of the grape-vine, from the kernels even unto the husk." (Num. vi. 3-4).

These laws refer to one who took the vows of a Nazir upon himself. Among the eight things he is forbidden to do, these four articles of food are included.

(31-32-33) "And no stranger shall eat of a holy thing; a sojourner of a priest, or a hired servant, shall not eat of a holy thing." (Lev. xxii. 10.)

This includes also an uncircumcised priest, even if he be so because of his brothers' death resulting from circumcision. The inference being that, as this, the eating of the heave-offering, is likened to the eating of the Pascal lamb, all rules in force concerning the Pascal lamb must also be followed regarding the heave-offering, and, as no uncircumcised priest is permitted to eat of the Pascal lamb, the same rule must be enforced regarding the eating of the heave-offering.

(34) "And if the daughter of a priest be married to a stranger (non-priest), she may not eat of the offered part of holy things." (Ibid. xxii. 12.)

This also refers to the heave-offering.

(35) "And when the sun hath set, he shall be clean, and afterward he may eat of the holy things." (Ibid. xxii. 7.)

This refers to unclean priest who is forbidden to eat of the heave-offerings while he is in a state of impurity.

(36-37) "I have not eaten thereof in my mourning, neither have I removed away aught thereof in an unclean state." (Deut. xxvi. 14.)

This forbids the eating of the second tithe during mourning, or impurity.*

(38-39-40) "Thou mayest not eat within thy gates the tithe of thy corn . . . or of thy oil, . . . and the heave-offering of thy hand." (Ibid. xii. 17.)

This forbids the eating of the unredeemed second tithes of grain, or of oil, outside of Jerusalem. It also forbids the priests to eat first-fruits outside of Jerusalem. The inference is taken from the words "and the heave-offering of thy hand," which can not possibly be interpreted as applying to heave-offering proper, for no specific place for eating it is needed; therefore, as first-fruits must be brought into the court, the deduction follows that the warning here means that the priest must not eat the first-fruits outside of the court, seeing that first-fruits are also called heave-offerings.

(41-42) "Nor any of thy vows which thou mayest vow, nor thy free-will offerings." (Ibid.)

These forbid to eat aught of the flesh of a burnt-offering; and the consumption by the priests outside of the courts of the sin or trespass-offering, or of lighter sacrifices, before the blood was sprinkled.*

(43) "Nor the first-born of thy herds, or of thy flock." (Ibid.)

This forbids eating of the pure firstlings outside of Jerusalem.

(44) "And every sin-offering whereof any of the blood is brought into the tabernacle . . . shall not be eaten." (Lev. vi. 23.)

This law includes all offerings which are designated as animals that must be burnt.

(45) "It shall not be eaten, because it is holy." (Exod. xxix. 34.)

This law forbids an outsider to eat anything holy in the court, after sprinkling of the blood thereof.

* See infra articulation of tithes.
* See infra concerning sacrifies.

(46) "And every offering of a priest shall be wholly burnt, it shall not be eaten." (Lev. vi. 16.)

This does not include the offerings of a priest's single daughter, or that of his wife.

(47) "To him who offered it shall not be accounted, it shall be an abomination, and the person that eateth it shall bear his iniquity." (Ibid. vii. 18.)

Intention may render a sacrifice abominable: (a) if one intends it for one kind of sacrifice and the priest will think that the offering is of a different kind; (b) if at the time of sacrifice it was intended to be eaten, or have its blood sprinkled, outside of the prescribed place; (c) if it was intended to be eaten after the prescribed time. This law refers to the eating of any sacrifice which was intended to be eaten after the prescribed time, which is at the beginning of the night of the third day following, thus making the whole sacrifice an abomination.

(48) "Then shalt thou burn the remainder with fire; it shall not be eaten." (Exod. xxix. 34.)

This forbids the eating of the remainder of an offering which was not consumed in the specified time.

(49) "And the flesh that toucheth any unclean thing shall not be eaten." (Lev. vii. 19.)

This is applied to flesh of offerings which become polluted by touching anything unclean.

(50) "Any thing hallowed shall she not touch, and into the sanctuary shall she not come." (Ibid. xii. 4.)

This implies a warning not to eat anything holy, as flesh of an offering, when one is in a state of impurity.

(51) "You shall not eat of it raw, nor in any wise sodden with water." (Exod. xii. 9.),

This refers to the Pascal lamb.

(52-53) "No stranger shall eat thereof. A resident foreigner, and a hired servant shall not eat thereof." (Ibid. 43, and 45.)

These are warnings not to permit a convert, who serves strange gods, or a real stranger, who did not wholly embrace Judaism,* to eat of the Pascal lamb.

(54) "But no uncircumcised person shall eat thereof." (Ibid. 48.)

This refers to the Pascal lamb and includes even an uncircumcised Israelite, as, for example, one whose two brothers died of circumcision.

(55-56-57) "And drank of their wine-offerings?" (Deut. xxxii. 38.) "Then shall he abstain from wine." (Num. vi. 3.) Or of thy wine." (Ibid. xii. 17.)

These forbid (a) to drink the wine which was intended for an offering to strange gods; (b) a nazir to drink wine; (c) to drink unredeemed wine of the second tithe, outside of Jerusalem. Of the three laws. the one referring to wine which was offered to strange gods, is interpreted to include any wine touched, or made, or bottled by one who does not believe in God, or in His commandments.

The laws designated as Special are of a ritual character, and in diaspora some of them have a degree of importance academically only. The exceptions, in addition to the laws referring to eating and cooking milk and meat together are few. But the laws classified as General are of the greatest importance to the Jewish people from any viewpoint they might be considered.

Many of the great authorities on Judaism have advanced reasons justifying the restrictions regarding diet. Ibn Ezra looked upon the dietary laws as essential to health, and all forbidden food as dangerous to it. Maimonides, with his great medical knowledge, gives evidence that the forbidden food is injurious to the person that eats it. Isaac Arama advances the theory that eating of the forbidden food might harm one spiritually; that is to say, his soul would be kept in subjection by the body. They all were right, and scientifically so.*

* Want of immersion in a water-font.
* Ibn Ezra on Torah, Lev. XI. Morah Nebuhim III. 48. Akedah, Shaar, 60.

Recently the radical wings of Judaism have entirely discarded the dietary laws, thereby advancing many reasons and theories, chief among them being that Trefah and milk-and-flesh have no foundation in the Torah.† There was enough said concerning Trefah, in the preceding chapter. As regards milk-and-flesh, although Maimonides ‡ indicates that it is a very heavy food when cooked together, it will be best evidence to his contention to suggest that the presence of lithium* in the milk, although in minute traces, might have a very bad effect on the meat. Lithium will only be separated from the milk by means of cooking, or heating it intensely. The lactic acid of the meat might, as a result of the gaseous element of lithium, be neutralized to a degree, and render the digestion of the food difficult. Perhaps this will explain the reason why no milk can be partaken after a meal of meat for about from three to six hours, just about the required time to have the meat digested.

However, there are some theories, and it also is part of Maimonides' theory, that certain animals, as well as certain mixtures of food, were forbidden so as to separate the Jewish people from idolatrous practices. Upon this foundation a new theory, known as Totemism, was invented.§ Totemism in its literal sense means Matriarchy, or what the Germans call "Mutterrecht." Stripped from all technicalities, the very high-sounding ism refers to some ancient tribes, or races who claimed kinship only through the maternal side. They are said to have worshipped different kinds of animals. Every such animal was forbidden to eat, and the patrons of such animal had its image tattooed on their person. And, as some American writers (who lack in historical truths, as will presently be pointed out) wanted to say something new, Totemism was connected to the ancient Hebrews; and, it is alleged, because they served so many different animals and plants, which they had tattooed on their bodies, they first refrained from, and subsequently were charged not to eat them.

† "Reform," Jewish Encyclopedia V. X., 350 E. G. H. and K.
‡ Morah III. 48.
* The lightest known metal and is present in very small quantity in milk and tobacco.
§ "Totemism," Jewish encyclopedia, Joseph Jacobs.

The assertion is historically groundless. The whole family system of the Hebrews, as is traced in Genesis, is on the paterfamilias line. Isaac was the son of Abraham, not of Sarah. Perhaps the entire patriarchal system was inaugurated by ancient Hebrews. Where the system of Matriarchy prevailed there was always a stipulation in the dotal contract that the supremacy over the husband shall belong to the wife, and that the husband will obey her.* According to Herodotus, the Lycians followed this custom. Counting kin through females was a practice in Egypt. Among the Etruscans the wife was the head of the family, and descent was counted through the mother only. The Plebians were partly organized along such lines, which was one of the causes of the long strife between them and the Patricians. It is true that Matriarchy, or Totemism, as it became recently known, was at one time widely disseminated, and that many ancient races practiced its dogmas; but how the ancient Hebrews can be connected with such forms of belief and practice can only be comprehended by an imagination which is mythical. As a matter of fact, Matriarchy is still in green observance in some places; for example, among some races of India and Sumatra.†

No doubt that many timely warnings concerning idolatry were given to the ancient Hebrews in order not fall prey to the beliefs and practices of all of their neighbors, particularly the Egyptians, who did practice Totemism, which bears out the reasons advanced by Saadia Gaon and Maimonides; but to assert that the Hebrews themselves practiced Totemism, and had all the animals tattooed on their bodies, and, therefore, refused to eat them, is historically a fiction.

The animals permitted to eat are the most developed and most fit, from the point of view of hygiene, of among the vertebrata, and only one kind of the Articulata. The Mollusca and the Radiata are the lowest forms of animal life and are very difficult to be assimilated as food, to replenish the blood, or build muscle. It is a known fact that, for ex-

* Diodorus I. 27.
† See also Daresk, R., Etudes d' Histoire du Droit, 3.

ample, the vulture has a much higher temperature than the hen, or goose, which renders its meat more gaseous, and less favourable to digest.

As a people, proud of our tradition, we must observe our sacred laws, and continue to get along without the unclean beasts in our system, even without chemical or medical support. We have lived through what other races could not without certain kinds of food. Others who did eat much more, and of a greater variety, have long since ceased to exist. Perhaps, after all is said, what we did not eat did us no harm at all; but what we did eat has done us good—it has kept us alive till to-day, and supplied us with a reserved energy to continue on our course until our goal will be reached.

CHAPTER IV

צער בעלי חיים

THE LAWS FOR THE PREVENTION OF CRUELTY TO ANIMALS ARE BASED UPON THREE MANDATORY AND SIX PROHIBITIVE COMMANDMENTS

(1) "Then shall he pour out the blood thereof, and cover it with dust." (Lev. xvii. 13.)

The life's blood of wild animals and birds which are permitted as food must not be left exposed. After slaughtering any of these species, the blood thereof must be covered with either dust, ashes, or clay by the Shohet or his appointee. This does not at all apply to the tame group of the clean animals. The reason was variously interpreted, the chief one being, because all sacrifice animals belonged to the tame group, and of the birds only two species of the pigeon group were used, and as the blood of the sacrifice animals were sprinkled in the sanctuary, nothing further was ordered regarding it. However, all reasons seem to indicate that the blood of the animal was not to be made light of. And of right that it should be so. Life in whatever form must be respected and spared,

in so far as it is consistent with the law of self-preservation. To sustain human life, the animal's life is of no consideration. The clean group might be eaten, and the unclean group might be utilized for other needs, such as furs, hide, wool, and the like. But no sanction was ever given to wage a war of extermination against the inoffensive inhabitants of the forests and the air. Neither can there be found any good reason why one should rejoice when many animals are bagged in one day, the use of which might be doubtful. Nevertheless, it is a fact that the hunter's prowess are as much praised as the great general's. Archæologists assert that the institution of king became a reality only after one of the primitive men distinguished himself as an expert hunter of dumb animals. The sport of hunting continues till this day to be the highest sort of recreation for many high-minded men. The laws of Judaism disown any such conduct toward the lower animals which, like unto ourselves, feel pain. Therefore, in killing an animal or bird, the species of which, as a rule, are difficult to get hold of, no sport is permitted. The animal, or bird, is killed because of the need of its meat, not for the sake of pleasing the animal-side of man. Accordingly, this law orders to have the blood covered, to set an example that the life of the lower animal too must receive consideration.

(2) "Thou shalt surely unload with him." (Exod. xxiii. 5.)

When an animal falls down under a heavy load, it is obligatory to help it rise up, and unload its burden. Moreover, no charge must be made against the owner, even he be an enemy, for the time spent in rendering such aid.

(3) "But thou shalt surely let the mother go, and the young thou mayest take to thyself." (Deut. xxii. 7.)

This law is conclusive evidence that the Torah considered the existence of the animal kingdom from every viewpoint. One may take the nest, whether it be full of unhatched eggs or young birds; but not in the mother's presence. If the mother continues to hover (and what mother-

bird does not hover over the nest of its issue?) around the nest, it is forbidden to take it. This law applies to clean birds, and only in case one has a personal need for either the young, or the eggs. To hunt unclean birds is forbidden on the principle which forbids needless destruction of anything.* Moreover, the Torah promises the reward of long life for obeying this law.

(4) "Thou shalt not take the mother with the young." (Ibid. xxii. 6.)

This is the warning not to take both the nest and the mother even when there is an absolute need for it. No war of extermination must be waged against the peaceful inhabitants of the air, which cheer so much our mornings and evenings. This, as well as the law in the preceding paragraph, include only wild birds, but do not at all apply to hens' nests.

(5) "And whether it be ox, or sheep, ye shall not kill it and its young both in one day." (Lev. xxii. 28.)

This law refers to domesticated animals only. If the sire of a certain young animal is known, the same rule must be followed. To do contrary would appear as an implied sanction to exterminate a whole branch of the animal kingdom. When one buys an animal from a cattle-dealer on the eve of Rosh-Hashanah, Pesah, Shebuot, or Shmini-Azeret, the vendor is obliged to tell him whether or not he had sold on the same day either the mother or its young, the presumption being that the other purchaser will also prepare meat for the holiday, and an infringement of the law might ensue.†

(6) "And in your land shall ye not make the like." (Ibid. xxii. 24.)

This law refers to castration.

(7) "Thy cattle shalt thou not let gender with a divers kind." (Ibid. xix. 19.)

This forbids cross-breeding of any kind.

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* Bal Tashit.

† There is no need to give this information on the eve of Sukkot as everybody is then busy with building the Sukkot, nor on the eve of Yom Kipur, when poultry or fish is mainly eaten.

(8) "Thou shalt not plough with an ox and an ass together." (Deut. xxii. 10.)

The physical strength of every animal is singular to its own constitution. So are the distribution of likes and dislikes among the various types, or species. This law applies to all animals. The implied commandment of this is also the law against overburdening any animal, or beating it. Cruelty in whatever form is inexcusable and therefore forbidden.

(9) "Thou shalt not see thy brother's ass, or his ox fallen down by the way, and withdraw thyself from them." (Ibid. xxii. 4.)

This law carries the principle of pity toward dumb animals still further. It is not sufficient to refrain from being cruel to them. Its pain must be lessened whenever and wherever such pain is apparent.

(10) "Thou shalt not muzzle the ox when he thresheth out the corn." (Ibid. xxv. 4.)

All animals must be fed before one eats himself. To deny feed to an animal is the worst form of cruelty. This law applies to all sorts of animals and birds.*

Fortified with this code against cruelty to animals, the Jewish people thought itself at least free from groundless accusations. But some nations thought otherwise. They singled out the Jewish method of slaughtering cattle as an example of cruelty. Perhaps the very early persecutors aimed to strike at Judaism, and pointed out Shehita as a pretence. The earliest record of persecutions against the Jewish people on account of Shehita is no doubt the one of Landshut, Germany, which had one of its meat regulations read as follows: "Butchers should sell 'Jew-meat and measly meat' nowhere except between the meat tables, and that neither measly meat nor Jew meat should be offered as good meat." (1401). In 1414, the regulation was still further reinforced in the city of Ulm, by forbidding a butcher offering 'Jew meat' to sell other meat entirely.† However, the first prohibitive law on record against Shehita in modern

* Emdon in Yaaboz.
† Ostertag's 17.

times, no doubt is the "order 24", passed at Schweibus in 1590, which reads as follows: "The Jewish method of slaughter shall be entirely forbidden, and any master of inspection who shall permit a Jew to slaughter according to their custom, whether a large or a small animal, shall forfeit his office." Neither was France much behind in making discriminatory laws against the Jews as regards Shehita. Robert von Anjou, a descendant of Fulke Anjou, who was (1135) king of Jerusalem, issued an edict that Jews must have separate slaughterhouses, and that "neither Jews nor lepers, nor prostitutes" must touch meat with their fingers. However, the greatest activity against Shehita really dates back only a few years, which was a direct result of the many appeals made "on behalf of the dumb animals" by leaders of the societies for the prevention of cruelty to animals. In Germany it was born almost simultaneous with the anti-Semitic movement. For nearly thirty-five centuries these laws of the Torah for the prevention of cruelty to animals were a sealed book to practically all nations. But no sooner has it been scientifically demonstrated that the lower animals really suffer pain than the Jews became the sufferers for having a method of slaughter which was unknown to the rest of the world.

The activities of the S. P. C. A. Jewryward, though largely confined within the borders of the German Empire, finally crossed the Atlantic and landed in an Eastern port, in Halifax, N. S., Canada. Mr. R. H. Murray became the champion of the S. P. C. A., and on March 19, 1913, the discovery was made that the local Shohet, Rev. Abo Gershon Levitt, who obtained his Kabalah, or certificate, from the late Rabbi Isaac Elhanan Spector, of Kovno, did commit cruelty upon a heifer, according to the evidence of an agent of the S. P. C. A., in the following manner:

> "Then defendant stepped up and cut the heifer's throat. The animal struggled, pounded on the floor, kicked with the fore legs, and gasped."

An expert witness then described what the "cut" was:

"I am a veterinary surgeon. Defendant severed the throat. The first to be severed was the skin, then the muscle, then the windpipe, then four jugular veins, two arteries, two nerves on each side, and other small nerve films."

Accordingly, Rabbi Isaac Elhanan's Shohet was found guilty by Stipendiary Magistrate Fielding, a brother to the Hon. William Fielding, late Finance Minister of Canada, who negotiated the Treaty of Reciprocity between Canada and the United States with ex-President William Howard Taft.*

The Halifax Jewry appealed the case, and Judge Wallace, on June 13, 1913, reversed the Stipendiary Magistrate by declaring that, "according to the evidence, the Jewish method of slaughter was more humane than any method known."

The case, Rex. *vs.* Levitt,* now forms a chapter in Canadian Jurisprudence. The evidence for Shehita was mainly founded upon the principles of the Talmud, Maimonides, and Shulhan Aruh. Professor David Fraser Harris, M.D.M.C.D.Sc.F.R.S., who occupies the chair of Histology and Physiology at Dalhousie University, Halifax, N. S., Canada, gave expert testimony when the case came up in appeal. Before the trial, when it was pointed out to him what the Jewish method of slaughter really is, and the conclusions of the Talmudists regarding it, he was agreeably surprised to discover the great source of scientific knowledge which is altogether unknown to the modern scientists.† The crown prosecutor, Mr. Murray, was actually amazed to find out that the subject of cruelty to animals was touched by the Talmudists. An element of wit at

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* The case, Rex vs. Levitt, being the first on record in the new world, stirred the whole Canadian Jewry.

* The Halifax community appealed to the Author to come to its aid. The Author journeyed thither, and conducted the case entirely at his own expenses.

† Dr. Harris consented to give expert testimony only after the Author pointed out to him the method of Shehita. The Author himself was the first expert witness called. Subsequently the Jewish community elected him as its honorary Chief Rabbi.

the trial was the able attorney, Mr. W. J. O'Hearn, on behalf of Rev. Levitt. He had one of the experts of Mr. Murray allege under oath that "a rooster without a head" is susceptible to pain.

No doubt that, in so far as Canada is concerned, the S. P. C. A. will make no further attempts against the Shehita.

Cruelty to animals is forbidden in Jewish ethics. We learn it from the ways of God. He is merciful to all His creatures; so must man be. The dove is more pleased with the bitter leaves which are provided by Almighty than enjoy sweets and be in the *hand* of man. It is of the greatest importance to engender love for the dumb animal in the heart of the child. Even great men err in ethics, when their fondness for animals is limited to a love for hunting them. Shedding blood unnecessarily will harden one's heart and cause him to look for strife. The greatest example is ex-President Theodore Roosevelt. He is a great hunter, and his greatest wish, as the American press reported it, was to die on a battlefield!

Man must not look upon bloodshedding as either a means or an end. The first step leading to bloodshed is cruelty to animals. It is related of Abraham Lincoln that, on visiting the battle front during the American Civil War, he, on one stormy night, saved a cat from exposure. So long as slavery could not be abolished without bloodshed, so long might was against right, he looked upon war as a commendable principle, but this should never interfere with doing a kind act, even when such act is directed to save a cat from unnecessary pain. This is identical with the principles of Judaism.

CHAPTER V

קדושין, חליצה, גרושין, אסורי ביאה

THE LAWS OF MARRIAGE, DIVORCE, KINSHIP AND SOCIAL DUTIES ARE BASED UPON TEN MANDATORY AND FORTY-THREE PROHIBITIVE COMMANDMENTS

(1) "And God blessed them, and God said unto them: Be fruitful and multiply." (Gen. i. 28.) "And you, be ye fruitful, and multiply." (Ibid. ix. 7.)

The generations of mankind must not cease. Man, as the head of the family, is alone included in this commandment. Woman can not be considered a violator of this commandment, if she is not seeking marriage, because she is not presumed to take up the responsibility of a family. It is, therefore, in line with Jewish civilization that the man must take the initiative in establishing a home. The age of puberty is at thirteen years and one day, and twelve years and one day, of the boy and the girl respectively. But the age when man must take unto himself a wife is when he reaches his eighteenth year. Man is a sinner if he is past the age of twenty and refuses to marry. The exceptions to these rules being: students of the Torah, or such as have no means of earning a livelihood and are engaged in acquiring a trade, art, or profession. To remain single of choice, and to marry late in life for convenience, is a moral sin. Particularly so among the modern Jews. The influence of Judaism upon the world's culture depends entirely upon the conduct, especially the moral conduct, of every individual Jew. The nations were, and to a great degree are, little particular as to the wastage of the Jewish population. Expulsions, emigration, wandering, arbitrary laws, economic disadvantages, poverty and congestion in large cities contribute no mean proportion to check the numerical increase of the Jewish race. And if in addition to all these there should develop an inner social restraint, race suicide will be-

come a not far-off reality. In the early day of Jewish history, polygamy was encouraged, no doubt, as a measure of economic necessity, although the desire to increase the number of cultured people and thereby further the cause of civilization seems to have been the primary object in view. However, from any point of view the student of social economy may look upon it, the Jewish people, as a race, should stand foremost among those who advocate large families.

(2) "When a man hath taken a wife and married her." (Deut. xxiv. 1.)

This is interpreted to be the commandment which called in existence the institution of marriage. The earliest Hebrews were grouped in families, tracing kinship through the father, in contradistinction to the method of establishing relationship through the female, in vogue among the so-called civilized nations of the ancient world, as, for example, the Egyptians. No doubt that the origin of Matriarchy, or Totemism, was due to the practice of the day. In the absence of laws regulating marriage, the identity of the father was a difficult task. The system of Paterfamilias in Rome was inaugurated much later.* Lycurgus claimed that his country was free from adultery, because all children belonged to the State, and child-bearing was a matter of natural selection in its literal sense. For example, a normal woman who had a sick husband, was ordered to select the father of her children from among the healthy males of Athens.† But the laws of Judaism, from the very dawn of Jewish history, regarded the home and family as the foundation of purity and morality. The act of taking a wife unto one's self is called Kdushin, or sanctification. The ceremony in itself is of the simplest character, but its significance is soulful and penetrating. The act of Kdushin must be in the presence of two witnesses, entirely strangers to both contracting parties. The woman's consent is an absolute necessity for the validity of the act. There must be a consideration given to the woman. Such consideration must be

* See law of XII tables.
† See Plutarch's Lives, Lycurgus.

of some value, the minimum being something which is worth at least a coin of the smallest denomination. Marriage by proxy was valid. No doubt on economic grounds. Common-law marriage, too, was valid, and gave the issue a legal standing, if the intentions of the parties were expressed before two witnesses. A dower is an absolute necessity. The minimum being two hundred zuzim to a virgin, and one hundred to a widow, divorcee, or other conditioned woman. This no doubt formed a basis for the laws of manus.‡ It gave to Jewish woman universal right to the ownership of some property, regardless of the form of marriage.§ By contract, the Jewish woman may own all property set aside as her own in a pre-nuptial instrument. She also had a right to stipulate that her surviving male heirs should be beneficiaries to the dower promised to her by the husband under the Ktubah, or contract of dower. When a man married, he became obligated to his wife to fulfill ten different obligations. They are: To support, clothe, and do his duty as husband; to give her medical aid when sick; to redeem her if she be taken captive; to pay her funeral expenses; if she survives him, to be supported of his estate, and dwell in his house so long she remains in her widowhood; to support her daughters, of whom he is the father, at the cost of his estate, till they marry; to have her sons, of whom he is the father, inherit her dower in addition to their share along with other brothers, if there be any, of another marriage. The husband acquires four rights of property. They are: her earnings; the income of her estate; anything she might find; precedence to inherit her property. However, a pre-nuptial contract may do away with all these special privileges and rights acquired by both parties, excepting the minimum dower, Ktubah, his duty toward her as husband, and his right of inheriting her estate. Woman, in the laws of Judaism, was never interdicted. She retained her right of property even without a marriage contract. In rites and some other religious

‡ The Romans inaugurated manus at a much later date than the laws of Ketubah.

§ Roman woman was entirely interdicted, unless otherwise provided in pre-nuptial contract. So are modern women where Roman laws were adopted, such as in the Province of Quebec, or Germany.

laws she figures very little, but it is not because of the inferiority of her sex. It is a privilege that she enjoys to be excused from some duties which, for instance, require performance at given times. The Reform wing of American Judaism proclaims that it stands for the liberation of the Jewish woman by making her equal to man in counting her in among the requisite number of ten Israelites to hold services. But it manifests a gross amount of ignorance as to what legal disabilities really mean. In her right to live independent, to own and enjoy civic and property rights, the Jewish woman was well protected. Socially and religiously her duties were confined to the sphere which has to do with the home, with her children, with her family. A woman is neither a drudge nor a drone, if she is a mother to her children, and a wife to her husband. The home is the circle of woman's happiness. If woman finds it otherwise, the fault must be looked for elsewhere than in the laws of Judaism. Perhaps the loose morals of the man who discards his part of the laws of Judaism could account for a large part of the volume of complaint. What is really the social need of the present might be answered in a word—Judaism.

(3) "If brothers dwell together, and one of them die, and have no child, then shall the wife of the dead not be married abroad, unto a stranger; her husband's brother shall . . . take her to himself for wife." (Ibid. xxv. 5.)

This law, since polygamy is no more an economic or social necessity, and therefore forbidden, can not now be complied with. And, as the brother who survived had the option of refusal, the law of the succeeding paragraph is followed in case one dies childless and leaves brothers.

(4) "And if the man have no desire to take his sister-in-law; then shall his sister-in-law go up to the gate unto the elders. . . . Then shall his sister-in-law come nigh unto him in the presence of the elders, and pull his shoe from off his foot,

and spit out before him, and shall commence and say: Thus shall be done unto the man that will not build up his brother's house." (Ibid. xxv. 7-9.)

This ceremony of *Helizah* now takes place of Yibom, or marrying one's sister-in-law, if a brother dies childless. It is an ancient Hebrew law expounding the principles that no family shall become cut off and extinct. When a brother dies childless, his widow is ipso judicto the wife of the eldest surviving brother, there being no Kdushin needed at the time the law of "rebuilding the house of a brother" was in force. Kdushin was inaugurated at a later date to protect the woman's right of property. And, although the brother has the option of refusal, and upon this law of limitation is built the present law of Helizah, the wife of a deceased brother can not remarry unless Helizah does take place. An infant brother can not give Helizah. Puberty is considered majority regarding Helizah. Any child that the husband may have, of another marriage, or of no marriage, will release his wife from the bonds of Helizah. A posthumous child, even if it died right after birth, if such child was well developed, or if it lives fully thirty days after birth, has the same effect to free the bonds of Helizah.

(5) "And he (the High Priest) shall take a wife in her virgin state." (Lev. xxi. 13.)

This law is conclusive evidence that from the earliest times Judaism propagated the principles of hereditary influence upon mind and body. The High Priesthood office was hereditary. It was the most exalted office in the gift of Israel. It was, therefore, of the greatest importance that the mother of a future High Priest shall be pure in mind and in body, never even having had the thought of any other save the father of her children.

(6) "And if a man seduce a virgin that is not betrothed . . . he shall surely endow her to be his wife." (Exod. xxii. 15.)

(7) "And she shall become his wife, because he hath done violence to her." (Deut. xxii. 29.) (8) "Because he hath spread abroad an evil name upon a virgin of Israel; and she shall remain his wife." (Ibid. xxii. 19.)

These laws are both remedial and preventive. They are covering every possible evil that man may perpetrate against the honor of woman. When there was mutual consent, the man has the option of either marrying the woman, or pay her indemnities consisting of a fine, as is stipulated in the Torah (supra 6), and damages for having shamed her, and for having blemished her character. When the evil was committed violently, he has no choice, but must marry her, unless she be his near relative, and lawful marriage between them impossible. But the woman has the option of refusing him, and if she does refuse him, he has to pay a fine, as is stipulated in the Torah (supra 7), and indemnities for having put her to shame, for having blemished her chastity, and for having caused her pain. If he marries her, he can never divorce her, unless the grounds be on her account. When a man marries a woman, and spreads an evil report about her (supra 8), she must be his wife forever, in addition to the fine and flogging he is to suffer.

(9) "When a woman goeth aside behind her husband, and hath been defiled . . . and the priest shall do unto her altogether according to this law." (Num. v. 29-30.)

The man's right to warn his wife against associating with any man is established by this law. The woman is obliged to remove the causes of jealousy. To protect the home and the family against any disgrace, such right had to be vested in man, who is the nominal protector of both. When a man had cause to believe that his jealousies were based upon reasonable grounds, his wife was brought before the priest who charged her by oath and gave her a cup of bitter waters to drink, to test her innocence or her guilt. However, this manner of trial of a faithless woman could be resorted to only when there were witnesses that her conduct was not proper

and that she did keep company with the man against whom her husband warned her. Or, if the husband was entirely ignorant as to her conduct, and it became publicly known that she is on familiar terms with a certain man, and a warning was given her by the authorities against such man, then the "trial of bitter waters" was justified even without the foreknowledge of the husband. But faithless women were a rarity, and a Sotah was practically unknown among Jewish women. A similar law, possibly built upon this principle, was in practice in British courts (1066). In order to get out facts from an accused, after putting him under oath, he went through an ordeal by fire, or by water, or by the accursed morsal *. There is no record in Jewish jurisprudence of the name of a Sotah who lost her life as a result of the ordeal of "bitter waters"; but it is said that the great Earl Godwin choked himself by partaking of the "accursed morsal." †

(10) "And it come to pass, that if she find no favor in his eyes, because he hath found some scandalous thing in her, he may write her a bill of divorcement, and give it in her hand, and sent her away out of his house." (Deut. xxiv. 1.)

Divorce was never a social problem in Jewish life. Primarily the grounds for divorce are limited to only three kinds of "scandalous things": (a) Unchastity; (b) violation of the laws of Moses; (c) violation of Jewish customs of decency.* Unless a woman committed adultery, the husband may forgive her any other violation which might be ground for divorcing her. There are also certain grounds upon which a woman may get a divorce from the man, such as unbearable disease—leprosy, for instance. Mutual ground for divorce is a childless marriage. The love of family being strong among the Jewish people, the latter cause brought about the majority of divorces during the last few centuries, particularly since polygamy was abolished. However, in recent years, due to the great exodus from Russia and other European countries, divorce-getting and

* Dean's English Legal History, Third Edition, 7-8.
† Ibid.
* Dath Moses and Dath Jehudith.

divorce-giving became a great problem in the newly organized Jewries in America and Great Britain. But with the lapse of time the evil will disappear. The lack of a sense of responsibility among the so-called radical element, which is mainly composed of a floating population, and the agitation of no-marriage-and-no-birth relationship among the sexes, for a time caused much uneasiness among the Jewish social workers and Rabbis. But as time goes on, and as the number was insignificant in the first place, the floating population of the larger centers of both sides of the Atlantic gradually is finding itself anew, and a kind of renaissance is taking place.

The bill of divorce which tears asunder the sacred bonds of marriage is the most important document in Jewish jurisprudence. In all, there are ten essential conditions to be complied with before the woman is considered divorced and free to remarry. They are: (a) the man's consent; (b) the act must be a written instrument; (c) it must contain a clear statement that she is divorced and completely asunder from him; (d) its subject must be exclusively relating to the severance of connection between them both; (e) it must be specifically in her name; (f) nothing should be wanting at its completion excepting delivery; (g) it must be delivered to her; (h) the delivery must be in the presence of two or more witnesses; (i) at the delivery it must be known to her that it is a bill of divorce; (j) the delivery must be made either by the husband himself or by his duly appointed proxy. All these are essential according to the laws of the Torah. Later it was enacted that the date and the signature of the witnesses are equally as essential. The custom is that the Rabbi, when the grounds are not clear or are emanating from personal disagreements, refrains from issuing a bill of divorce. "When a man divorces his first wife, even the altar sheds tears," says the Talmud. The greatest responsibility connected with the office of orthodox Rabbi is the "Get."

Before uniting a couple in marriage, the officiating minister should ascertain the exact kinship of the applicants. The relatives forbidden to

intermarry among themselves are enumerated in the succeeding paragraph, each relative representing a prohibitive commandment.

(11) a mother; (12) father's wife, included in this is also grandfather's wife and ascendants, but on his maternal side the limit is only to mother's father's wife; (13) a sister, either from one father or from one mother, even if it be the illegitimate issue of either of the parents; (14) a sister from one father born of a lawful marriage; but it does not include the daughter of a father's wife, born of a previous marriage; (15) a grand-daughter through a son; or (16) through a daughter; (17) a daughter, even of unlawful birth; (18) a wife's daughter; (19) a wife's grand-daughter through her son; or (20) through her daughter, even of unlawful birth; in these are also included three ascendants: the mother-in-law, the mother-in-law's mother, and the father-in-law's mother; (21) father's sister, whether from one father, or from one mother, even of unlawful birth; (22) mother's sister, the same as a father's sister; (23) the wife of father's brother, which includes also the wife of mother's brother, even if in both instances the kinship is through the maternal side only; (24) a son's wife and all descendants, but a daughter-in-law of a daughter is limited to that degree only; (25) a brother's wife, whether through paternal or maternal side, whether a brother's widow, or divorcee; (26) a wife's sister, as long as the wife is living; this also includes the sister of a deceased brother's wife, who was left childless and must take Helizah; (27) another man's wife. The issue of any of these, whether by error or by deliberate act, with the exception of the Sniyoth,* are what the Torah names Mamzorim, and (28) never should a Mamzor be permitted to marry a Jewish son or daughter. A child born without the bonds of wedlock, if there were none of the enumerated disabilities in the parents, is not a Mamzor, and is permitted to marry within the Jewish folds.

There are also special conditions which render intermarriage between some classes of people impossible. They are: (29) a High Priest, or

* For example: a brother dies childless and leaves a wife who is obliged to be released by Helizah. Such sister-in-law's sister is disallowed, but she belongs to Sinyoth, or secondary relatives.

priest, must not marry a harlot; (30) or a profaned woman;† (31) or a divorcee; (32) a High Priest must not marry a widow; (33) or have any relations with her, even she be widowed after betrothal; (34) not to intermarry with any of the seven nations which occupied Palestine before the Hebrews settled there, or with any one outside of the Hebrew race; (35) or with any male of the Amonites or Moabites; (36) or with any descendants of Esau, before two generations lapse after they embrace Judaism; (37) or with any Egyptian, before the lapse of two generations after they were proselytised; (38) or with a eunuch, if he be not such by birth; (39) or with a woman who has not taken Helizah; (40) or one's own divorcee, if she married another man and was divorced or widowed from him.

It is forbidden (41) to refuse to support a wife properly, to clothe her, or to fail to perform the duties incumbent upon a husband; (42) to have any relationship with a prostitute; (43) to divorce a wife by whom she had been violently defiled before marriage; (44) or divorce a wife against whom the husband had spread an evil report after marriage; (45) to pour oil upon the offering of a Sotah; (46) or put any frankincense thereupon; (47) to approach one's own wife when she is menstruous, including the prescribed period after childbirth; (48) see Lev. xviii. 6.; (49) Ibid. 23; (50) Ibid. —; (51) Ibid. 22.; (52) Ibid. 7.; (53) Ibid. 14.

† A female child born of a priest and a woman forbidden to him is a Helalah, or profane.

CHAPTER VI

נדרים, נזיר, ערכין, חרמים, מעילה

THE LAWS CONCERNING THE PRONOUNCEMENT OF VOWS, OATHS, ABSTINENCE, ESTIMATE VALUES AND OF THINGS WHICH BECOME HOLY BY WORD OF MOUTH ARE BASED UPON TWELVE MANDATORY AND FOURTEEN PROHIBITIVE COMMANDMENTS

(1) "What is gone out of thy lips shalt thou keep and perform." (Deut. xxiii. 24.)

Back of the whole structure of civilization is man's word. To prevent organized society from crumbling, it is of the utmost importance that the words of its individual members should be true words. As a matter of precaution, the Torah ordered every one to live up to his word, even if it be to his own pain or detriment. This law, in addition to its general character, specifically refers to vows. There are two kinds of vows: (a) Nidro Issur, or vows which render the things which are the subject of the vows forbidden to the person who takes the vow; (b) Nidro he-Kdosh, or vows which render the things which are the subject of the vows holy. The different rules relating to Nidro Issur are: (a) the meaning of the words spoken are interpreted according to the pronunciation in vogue in the district where the vow was taken; (b) it is essential that the thing which is the subject of the vow shall not be designated as, or likened to, anything which is forbidden in itself; (c) the vow may be pronounced by another person, if only the one who hears it says, Amen; (d) if the vow be conditional, the conditions must be remembered at least at the time the vow is taken; (e) the thing which is the subject of the vow might be so twice over if the conditions are different; (f) the mere saying of a bystander, "and I will be like yourself," is a binding vow, so will it be upon any

number of persons who will continue to say it; (g) a vow is binding even though it be concerning a thing which the one who takes the vow is obliged to do, or eat; (h) the force of the vow, unlike that of an oath, rests upon the thing which is the subject of such vow, not upon the person who takes the vow; (i) a vow is null if taken under duress, in error, in the process of barter, or if it is made dependent upon an exaggerated or impossible comparison; (j) a minor, before puberty, can take no vow; (k) if, when over eleven years and one day and over twelve years and one day old, the girl and the boy respectively will know the nature of a vow, in whose name a vow is taken, and what the result of such vow would be, it is binding, though they did not reach the age of puberty.

(23) "Until the days be completed, in which he abstaineth in honor of the Lord, shall he be holy, letting grow untouched the hair of his head. . . . On the day when the days of his abstinence are completed . . . the Nazarite shall shave." (Num. vi. 5. and 13-18.)

The vows of a Nazir are included in the Nidro Issur. The foundation of the laws of Nazir being on the general principle of the law that one must "keep and perform all that goes out of one's lips." The restrictions upon a Nazir may be summed up as follows: (a) there is no Naziroth possible for a period of less than thirty days, even though the one who takes such vow will expressly state a lesser period; (b) if he be defiled during the time of his Naziroth, he must shave and bring a sacrifice, and, then, count the period of Naziroth anew.

(4-5-6-7) "If a man make a particular vow (to give) the estimated value of persons in honor of the Lord." (Lev. xxvii. 2. Also Ibid. 13, 15, and 16.)

The laws of Arohin, or of the estimated value of persons, unclean beasts (which can not be brought as a sacrifice), houses, and fields, are classified as Nidro he-Kdosh. The subjects of the vow become holy as a

result thereof. And, as none of these can be brought as sacrifices, the procedure is as follows: (a) persons include only those over thirty days old; (b) the estimated values are prescribed in Lev. xxvii. 2-8; (c) a poor man may redeem such vow by giving anything, even if it be the last thing he has; (d) the same rules apply to movable and immovable property, in redeeming it by paying its estimated value; (e) the money thus obtained went to the fund for repairs of the Temple; (f) in redeeming the things made holy by such form of vow, one must add one-fifth to the estimated value; (g) if the thing made holy be fit for a sacrifice, no redemption is possible, save only when one will say that a clean beast should be holy for the Repairation Fund, when the beast will be sold and the proceeds applied to the Fund.

(8) "Every devoted thing is most holy unto the Lord." (Ibid. xxvii. 28.)

This commandment is also concerning Nidro he-Kdosh, but it refers to Horem, or things which, as a result of a vow, become devoted, or consecrated, and must be turned over as they are, without a right of redemption. Unless one specifies what use the things, or the proceeds thereof, should be made of at the time of the vow, the things become Hormey Cohen, exclusively devoted, and must be given to the Cohen, without the right of redemption.

(9) "If any person commit a trespass, and sin through ignorance against the holy things of the Lord." (Ibid. v. 15.)

This law refers to one who, in error, enjoys of things which are holy. If the things be of either the sacrificial fund or of the repairation fund, he must, in addition to restitution and a fifth added thereto, bring an offering. But if it be of Hormey Cohen, only restitution and a fifth added thereto is required. This form of trespass is called Meilah.

(10) "And if he should change beast for beast, then shall it, together with its exchange, be holy." (Ibid. xxvii. 10.)

This law requires that no change be made in the beast one makes holy as a sacrifice. The punishment for breaking one's word in this way is that its exchange also is holy. This form of stricture is called Tmurah.

(11) "And by His name shalt thou swear." (Deut. x. 20.)

This law makes it mandatory that when one has to take an oath, he must take it in the name of God. An oath is binding in whatever language, form, or manner it be taken. An oath binds the person either to perform or not to perform certain things. The countries which have adopted special forms, or language, or manner of dress * in swearing-in Jewish witnesses, have done so in ignorance. Or, possibly some overzealous Jewish fanatic furnished the "information" that, for example, an oath would not be binding upon a Jewish witness unless he has his hat on when he is being sworn in by a magistrate. Where such form is still in vogue, it appears not only awkward but even degrading to have one singled out with a mark which is not at all essential or necessary in the slightest degree.

(12) "If a man make a vow unto the Lord . . . he shall not profane his word; according to all that proceedeth out of his mouth shall he do." (Num. xxx. 3.)

From this commandment it was deducted that it is a mandatory duty on the Jewish authorities to judge relating vows in general, and, where the cause of truth would not be affected, to give absolution to such as are not able to live up to their vows. But the breaking of a word in any case must be public, to serve as a preventive against looseness of the tongue. Absolution are given either by recognized authority, such as a Rabbi, or by three ordinary members of any community. The vows of a spinster might be either annulled or dispensated by the father; and that of a married woman by the husband. But the latter has only the authority concerning such vows which would affect the happiness of their living together, or which would be painful to his wife, or which would diminish her beauty, or cheerfulness. It is very improper to take any of the Nidro Issur, and even of the Nidro he-Kdosh. There were two safes in the Temple. One was known as the Silent safe, where people would drop

* In the Province of Quebec, for example, a Jewish witness, while being put under oath, is required to have his head covered.

alms, which went to the support of distinguished families which had been reduced to poverty. The other was known as Repairation safe, where people would drop everything useful which was utilized for the purpose of repairing the Temple and keep it in good condition. Such methods of contribution were much more commendable. Their origin no doubt was a preventive against taking different vows and turning the proceeds into similar funds.

The prohibitive laws on the subjects covered in this chapter are: (13) not to swear falsely, including all manner of perjury; (Lev. xix. 12) (14) not to take an oath in vain, including all sorts of swearing unnecessarily; (Exod. xx. 7.) (15) not to deny a debt, including any denial whereby another is deprived of property, or of his right thereto; (Lev. xix. 11.) (16) not to lie, including perjury in money matters, as where one denies a debt and swears to it; (Ibid.) (17) not to profane one's word, in reference to all vows; (Num. xxx. 3.) (18) not to shave during the period of the vow of Naziroth; (Ibid. vi. 5.) (19) not to enter a house or tent where there are the remains of a deceased person during the period of Noziroth; (Ibid.) (20) and not to touch such remains, or any other unclean thing which might defile him; (Ibid.) (21) not to sell any of the things which become, as a result of a vow, Hormey Cohen; (Lev. xxvii. 28.) (22) and not to redeem it; (Ibid.) (23) not to work with the first-born among the herds, all which are holy by nature of birth; (Deut. xv. 19.) (24) and not to shear the first-born among the sheep; (Ibid.) (25) not to exchange any beast which was designated as a sacrifice; (Lev. xxvii. 10.) (26) not to exchange holy things from one purpose to another.

All these laws refer to the personal honor of every man, and to the extent one must go in defence of his honesty. The different fines and punishments are not now in practice. But the principles are here, as full of the philosophy of life as if it was promulgated at a congress of all mankind called for the purpose of safeguarding society against the evils which might ensue from the edge of the tongue.

BOOK IV

ספר רביעי

זרעים — עבודה — קרבנות — טהרה.

CHAPTER I

תרומות ומעשרות, צדקה

THE LAWS OF HEAVE-OFFERINGS, TITHES, AND RIGHTS OF PROPERTY OF THE PRIESTS, LEVITES AND THE POOR ARE BASED UPON TWENTY-THREE MANDATORY AND THIRTEEN PROHIBITIVE COMMANDMENTS

INTRODUCTION: Entering upon the subjects of offerings, sacrifices and priesthood, I venture to suggest that the entire system is composite, uniting the element of rite, as outlined and interpreted by Maimonides, with the elements of social and political economy.

We behold the entrance of a progressive and liberty-loving people upon a career backed by a newly-acquired civilization. A land "flowing with milk and honey" becomes the home of that people. Its economic foundation rests mainly upon the production of the soil. The country is divided into tribal districts, and subdivided into homesteads. The ownership of each homestead is protected by laws of prescription, which make the conveyance of land perpetually practically impossible. A strictly civic organization is ordered, leaving the entire physical strength of the land at the disposal of the judiciary to enforce the laws. One tribe, however, is left out of the economic organization, and is drafted for the service of the spiritual and hygienic needs of the population. That tribe receives no share in the land. But there must be compensation, both for the share of the land transferred to the rest of the tribes, and for services rendered.

Accordingly, rights of property in the crops were reserved as compensation for the share of the land, and special rights of property in various parts and portions of the different sacrifices as remuneration for services rendered. The system was both practical and expedient in a State aiming to distribute the greatest amount of good to the greatest number. A State religion is impossible in a modern heterogeneous nation. Neither would land taxation, as a sole source of revenue, be just under the present system of "grab-and-keep" every possible source of wealth. But the Jews were ordered to be a distinct people, a model for all nations. Their laws, therefore, had to be in accord with their aims.

The inevitable poor, too, had to be looked after, and, as a means of protection against the miser, some rights of property was given to them, so that there should be equality before the law.

With this introduction, brief as it is, the student will find the laws enumerated in this and in the succeeding chapters of this book comprehensible.

(1-2-3-4-5) "For the poor and the stranger shalt thou leave them." (Lev. xix. 10.) "For the stranger, the fatherless, and for the widow shall it be." (Deut. xxiv. 19.)

These laws command the owner of land to leave for the poor during the harvest: (a) The "corners" of fields, or vines, or fruit-trees, without, however, any limit as to the size of the corner, *Peeah;* (b) The "gleanings" of fields, the limit being two grains, every time they fall in mowing, *Leket;* (c) The gleanings of the vine, consisting of clusters which have but scattered grapes, as they fall down, *Ololot;* (d) The grapes that drop down singly, *Peret;* (e) Forgotten sheaf, or cluster, *Shikhah.* The poor, accordingly, acquire four rights of property in the vineyard, that of a, c, d and e; three rights of property in the grain fields, that of a, b and e; and two rights of property in the orchard, that of a and e. Thus far the share of the poor during harvest time.

(6) "The first-fruit of thy corn, of thy wine, and of thy oil . . . shalt thou give him (the priest)." (Ibid. xviii. 4.)

After the gathering-in of the harvest through the gate, when the crop is ready, the great heave-offering, *Trumah Gdolah,* takes place.

This is done by adjustment. About one-fiftieth of the whole crop being the proper limit. That must be given to the priest.

(7) "But the tithes of the children of Israel, which they offer as a heave-offering unto the Lord, have I given to the Levites for an inheritance; therefore have I said unto them, Among the Children of Israel shall they obtain no inheritance." (Num. xviii. 24.)

After the great heave-offering is given to the Cohen, an exact tithe is either measured, weighed, or counted, and given to the Levite, as his right of property in the crop which grew upon the undivided part which should have been his, had he not been ordered to consecrate his life to the service of the nation. This is called *Maasor Rishon.*

(8) "Then shall ye separate therefrom a heave-offering of the Lord, the tenth part of the tithe." (Ibid. xviii. 26.)

This commandment is an order to the Levites to give tithes of their share of the crop to the priests, or *Maasor-min-ha-Maasor.*

(9) "Thou shalt truly tithe all the produce of thy seed, which the field bringeth forth year by year." (Deut. xiv. 22.)

This tithe of the crop, which must be separated either by measure, weight, or count, every first, second, fourth and fifth of the Sabbatical years belongs to the owners of the land; but it, or the proceeds thereof, must be consumed in Jerusalem. This law was instrumental in stimulating commerce in the large center of the country. Besides, it kept every family in touch with the life of the nation. This is called *Maasor Sheeni.*

(10) "At the end of three years shalt thou bring forth all the tithes of thy produce in the same year . . . and they shall eat and be satisfied." (Ibid. xiv. 28-29.)

This commandment ordains that on the third and sixth of the Sabbatical years, every land owner must give the *Maason Sheeni,* which usually belong to him, to the poor. It is another right of property that the poor enjoy. But the owner may keep in his premises the tithes of the poor and feed them therewith as they come along. This is called *Maasor Ani.*

(11) "But in the fourth year shall all its fruit be holy for praise-giving unto the Lord." (Lev. xix. 24.)

This law refers to the fruit of the fourth year after a tree was planted. It is called *Nata Rebeeh*. The fruit belongs to the owner, but it, or the proceeds thereof, must be eaten in Jerusalem.

(12) "When thou hast made an end of giving away all the tithe of thy produce . . . Then shalt thou say before the Lord thy God, I have removed away the hallowed things, etc." (Deut. xxvi. 12-15.)

This commandment is concerning the "Confession of Tithe," *Vidue-Maasor*. On the last day of Passover, during the fourth and sixth of the Sabbatical years, when Maasor Ani takes the place of Maasor Sheeni, after all heave-offerings and tithes are separated, the Jewish farmer must appear in the Temple and deliver this confession, which concluded with this prayer: "Look down from the habitation of Thy holiness, from the heavens, and bless Thy people Israel, and the soil which Thou hast given unto us, as Thou hast sworen unto our fathers, a land flowing with milk and honey." (Ibid.)

(13) "The first of the first-fruits of thy land shalt thou bring unto the house of the Lord thy God." (Exod. xxiii. 19.)

The first-fruits were brought to the Temple on the Feast of Weeks, which is also known as Hag ha-Bikurim. There are seven kinds of first-fruits to offer: wheat, barley, grapes, figs, pomegranates, olives and dates. Wine and olive-oil may replace the raw fruit. This also forms part of the priest's income.

(14) "And thou shalt commence and say before the Lord thy God," etc. (Deut. xxvi. 5-12.)

Along with the first-fruits the custom is to bring doves and pigeons in the hands and hanging about the baskets. Those hanging about the baskets are brought as an offering, and those carried in the hands as a present to the priests. When the farmer comes in with the first-fruits in the Courtyard the Levites meet him with song, saying: "I will extol Thee, O Lord; for Thou hast lifted me up." (Psalm xxx.). After delivering the first-fruits, the farmers recite in Hebrew the passages ex-

toling the wonders of God in delivering Israel from Egyptian bondage, and giving thanks for the land He gave unto Israel. (Ibid.). This called *Mikro Bikurim.*

(15) "As the first of your doughs shall ye set aside a cake for a heave-offering." (Num. xv. 20.)

This commandment refers to another source of income of the priests. It consists of about one twenty-fourth in the dough of a family, and about one forty-eighth in the dough of a public baker. This is one of the commandments which are preserved till this day by the women in Israel. About one forty-eighth of the dough is separated and burned. It is called *Trumath Halah,* and is one of the three principal commandments for women to observe. It is a most commendable law. It reminds the Jewish women of a glorious past, when bread was made of "home-grown" grain, when there were the vine and fig trees, the milk and honey, the independent life under the protection of a race of heroes. It is a self-imposed spiritual taxation which fills the heart with hope and prayer for the restoration of the ancient home to the homeless people.

(16-17) "And this shall be the priests' due from the people, then shall each one give unto the priest the shoulder, and the two cheeks, and the maw . . . the first shearing of thy sheep shalt thou give him." (Deut. xviii. 3-4.)

These are additional rights of property of the priests, as their share in the stock that is raised on the land in which they were given no share. These portions are given to them only when a clean beast is slaughtered. And the wool of the sheep was restricted only to the first shearing of the young

(18) "Nevertheless thou shalt redeem the first-born of man." (Num. xviii. 15.)

Every first-born male child, when fully thirty days old must be redeemed and the redemption-money given to the priest. The first-born of the mother only is within the meaning of this law. The first-born of a Cohen, or Levite, or if the mother is the daughter of either a Cohen or a Levite, needs not be redeemed. This law is in force in diaspora, and

the Redemption of a first-born son is one of the occasions of joy in the Jewish home. *Pidyon ha-Pen* is second only to that of a *Brith*.

(19-20) "And every firstling of an ass shalt thou redeem with a lamb; and if thou wilt not redeem it, then shalt thou break its neck." (Exod. xiii. 13.)

The redemption-lamb must be given to the priest. It is his right of property in the working stock which is being raised on the land. Redemption or breaking of the neck of a firstling is mandatory only when it is a male. Failing to redeem such firstling it is mandatory to break its neck.

(21) "Sanctify unto me all first-born . . . and of beast; it is mine." (Ibid. xiii. 2.)

This refers to firstlings of the clean group of beasts, such as the ox, sheep or goat, but not of wild animals. The male firstling of either of this group must be kept fifty days, if an ox, and thirty days, if a sheep, or goat, and then given to the priest, who offers its blood and fat upon the altar, and eats its meat, and enjoys the proceeds of its hide. If any blemish is discovered the priest takes it as it is and eats it, or gives it to eat to any one, as it is his property. But in no case shall any work be done with it, if an ox, or any wool be taken from it, if a sheep.

(22) "And concerning the tithe of the herds, or of the flocks, whatsoever passeth under the rod, the tenth shall be holy unto the Lord." (Lev. xxvii. 32.)

The priest has no share in this tithe. The procedure is like this: either on the last day of the month Adar, or on the thirty-fifth day after the Omer is offered, or on the last day of the month Elul, the flock, or herd, was gathered in a stable, and arranged to have every one pass through a narrow doorway, each one being counted, and the tenth one is branded as holy. This is done with the yearlings of the herds and flocks. The branded ones are brought to the Courtyard, where they are slaughtered, and their blood and fat is offered upon the Altar, and the meat given to the owners, who are obliged to eat them in Jerusalem.

(23) "For the needy will not cease out of the land; therefore do I command thee, saying, Thou shalt open wide thy hand

unto thy brother, to thy poor, and to thy needy, in thy land." (Deut. xv. 11.)

This commandment speaks for itself. Scientific charity will never abolish poverty. There will always be poor. It is one of the social problems which will never be solved by hard-heartedness. As was pointed out, during the national era of Israel the poor had a right of property in the products of the land. There is no commandment in the Torah which should be more carefully observed than this one. There are eight different methods of helping a poor man: (a) To give him alms in a half-hearted manner; (b) to give him cheerfully, but less than what he needs; (c) to give him only after begging alms; (d) to give him before he asked; (e) to give him in a way that he may know who his benefactor is, but the benefactor should not know who received his contribution; (f) to give him in a way that he shall not know who his benefactor is; (g) to give alms secretly, that no one may know of it; (h) but the greatest of all charities is when one helps another by lending him a sufficient amount to start himself up anew and become self-supporting, which is *Gmiluth Hasodim.*

There is no doubt that in distributing charity, method and system is required. The idea of federated charities is not at all a new one. In every old established Jewry all charitable institutions were and are under one management, thereby saving a great deal of trouble to the poor and quite an amount in the costs of distribution.

The prohibitive commandments on the subjects of this chapter are: (1) Not to seed the fields with mingled seeds, and (2) not to wear garments mingled of wool and linen (Lev. xix. 19.); (3) not to sow a vineyard with divers seeds (Deut. xxii. 9.); (4-5-6-7) not to wholly reap the corners; not to gather the gleanings; not to glean the vineyard; not to gather the single grapes (Lev. xix. 9-10); (8) not to go back to fetch the forgotten sheaf (Deut. xxiv. 19); (9) not to harden the heart nor shut the hand against the needy (Ibid. xv. 7.); (10) not to give one offering or tithe before another, nor give them in disorder (Exod. xxii. 28.); (11) not to exchange the Maasor Sheeni, or its redemption-money,

for anything save eating and drinking (Deut. xxvi. 14.); (12) not to redeem a sound firstling of the clean group of beasts; (13) nor redeem, sell or exchange the tithes of the herd or flock if they be sound and fit for sacrifice.

The prohibitive laws in reference to mingled and divers seeds form the basis of scientific farming. The first principle of good farming is rotation of crops. The commandment to wear no garments of wool and linen mixed is, no doubt, a precaution against the practice of deceit by merchants, and is part of the laws of economy in Jewish jurisprudence.

CHAPTER II

שמיטה ויובל

THE LAWS OF THE SABBATICAL AND JUBILEE YEARS ARE BASED UPON NINE MANDATORY AND THIRTEEN PROHIBITIVE COMMANDMENTS.

(1) "Even in the ploughing time and in the harvest shalt thou rest." (Exod. xxxiv. 21.)

Thirty days before the Sabbatical year is ushered in all agricultural work, save irrigation, and work in connection with the crop of the sixth year, must be stopped. During the whole of the seventh year all fields must be left fallow. Ploughing of treeless fields must cease on the eve of Pesah, and of tree-shaded fields on the eve of Shebuot of the sixth year. The sixth year's crop, if it ripens and is ready for heave-offerings before the dawn of Shemita, may be eaten and used as an article of commerce. If it be not ripe, or not ready for heave-offerings on the last day of the sixth year, it comes under the laws affecting products grown during the Shemita year. Originally all such products were permitted to eat during the Shemita year, but as a precaution against abuse, it was enacted that only fruit or vegetables which require no seeding should be eaten. However, all products are released of the rigor of the Sabbatical laws on the twenty-fifth day of Kislev (Hanukoh) immediately succeeding a Shemita year.

(2) "But the seventh year shalt thou let it rest and lie still; that the needy of thy people may eat of it." (Ibid. xxiii. 11.)

The release of all crops takes place on the eve of Rosh-ha-Shanah of the Shemita year. All gates must then be opened. The poor man's rights are automatically established against all fields in the realm. The animals, too, must be given free access to all pastures. The Shemita brings about a year's community of interests in all that the soil produces. The owner has the same right as any other to the products of his land, but no more. He may eat, feed his cattle, sell it and purchase other articles of food with the proceeds thereof. But he must not utilize it as an article of commerce, or use the proceeds thereof for any other purpose than food. Neither must he measure, weigh, or count it when selling or exchanging it for other foodstuffs. The different kinds of products of the Shemita year may be eaten so long there remains of the same kinds on the trees of the respective provinces. The uniform rule is: to eat olives till the Hag-ha-Bikurim; grapes, till Pesah; and figs, till the twenty-fifth day of Kislev (Hanukah) of the Shemita year. What is left over must be burned. This was called *Biyur Shebiit.*

(3) "Every creditor shall release the loan which he hath lent to his neighbor, he shall not exact it . . . because the release year in honor of the Lord hath been proclaimed." (Deut. xv. 2.)

All manner of debts, save only fines, hypothecs on land, wages, book-debts of a merchant, and women's dower, were prescribed at the approach of, and during, the Shemita year. No doubt the laws of prescription were inaugurated to prevent looseness of borrowing. Among many of the ancient nations a debtor was the actual property of the creditor.* But in order to give the country a solid credit system remedial legislation became imperative. Accordingly, laws were enacted by the Rabbis to safeguard the interests of legitimate creditors. A judgment of, or an action pending in, the court prevented prescription. But the greatest and best known remedy is the *Takonat Hillel,* or *Prusbul.* With the well defined principle that no debt secured by land is prescribed at, or

* The law of Nexum in Rome gave several creditors the right to cut the debtor and divide the parts among themselves. Lex sectio. See Shom's Institutes, Oxford, 1907, third edition, p. 51.

during, the Shemita year, Hillel overcame the rigor of the law of prescription by ordering all creditors to secure their debts by land, even if they had to deed a piece of land to the debtor for the purpose of making the loan depended upon it. And, as a further precaution the creditor appears before the judges of the place and presents the following-worded instrument: "Notice is hereby given to the Judges of this Court that I reserve the right to collect any and all amounts due to me whenever I will deem it advisable"; and the instrument was signed either by the Judges or by two witnesses. All laws of prescription now in vogue among civilized nations are founded upon the principles of this law of the Torah.†

The underlying principle of the Sabbatical year is best expressed in the Torah, "A year of rest shall it be unto the land." The people of Israel had to look far into the future. They had settled upon a limited territory. Wars of conquest were not tolerated or thought of. The only means of continuing peacefully in their own land, and secure the safety of future generations, were conservation and production. Rotation and occasional fallow will conserve the soil. It is a well known fact that many rural districts have been abandoned because the surface of the soil was ruined by overwork.‡ To have all land under grass once in seven years, and, at the same time, permit animals to roam freely over the fields, will fatten the soil, and the yields of the six years, if the rules of rotation will be followed, will more than compensate for the loss of one year's crop. The surface of the best ground is not more than from eight to ten inches thick, and if no proper care is taken it will deteriorate year by year until its productiveness will be reduced to a minimum. Fruit trees, too, must be left in their natural state for a time. Aiding nature is helpful only in a way, but to rely upon artificial means for the continual production of crops is an irreparable error.

The first Sabbatical year in Jewish history was proclaimed fourteen years after the people of Israel landed in Palestine. It had taken seven years to conquer the savage tribes and establish order, and seven more years to have the land surveyed, bounded, divided among the tribes, and

† The Roman law of usucaplo is of a later date than the institution of Shemita.
‡ Many farms in the New England States are deserted.

subdivided in homesteads. Accordingly, the eve of Rosh-ha-Shanah of the year 2503, witnessed the dawn of a Shemita in Canaan, when all the laws of the Torah became operative. It is now (5677) three thousand one hundred and seventy-four years since the inauguration of the era of Israel's nationalism.

(4-5-6) "And thou shalt number unto thee seven sabbaths of years, seven years seven times . . . And then shalt thou cause the sound of the Shopher to be heard, in the seventh month, on the tenth day of the month . . . And ye shall hallow the fiftieth year, and proclaim freedom throughout the land unto all the inhabitants thereof; it shall be a jubilee unto you." (Lev. xxv. 8-10.)

The Sanhedrin are charged to tell the number of every year on the night of Rosh-ha-Shanah, and pronounce a benediction thereon. The forty-ninth year is the seventh Shemita, when all the laws affecting a Sabbatical year went into force. On the eve of Rosh-ha-Shanah of the fiftieth year, the Sanhedrin tell the year by pronouncing the Jubilee benediction and then all laws affecting a Jubilee year become operative. There must be no agricultural work done during the whole of the Jubilee year. Thus once in fifty years the land is left fallow two consecutive years. The fiftieth year is not counted in among the Sabbatical years. The first year of the incoming Shemita begins only with the fifty-first year. The Jubilee year's fruit and crops are disposed of in the same manner as during Sabbatical years. The main features of the Jubilee year are: the liberation of slaves, the prescription of property obligations and conveyances, and the admission of resident-foreigners into citizenship. But these did not take place till Yom-ha-Kipurim, when the sound of the Shopher proclaimed liberty—liberty for the slaves, liberty for the former owner to take possession of his land, liberty for the alien to join the body politic of his adopted country. The Jubilee year does not prescribe debts which do not affect corporeal or incorporeal rights of property in immovables.

(7) "And in all the land of your possession ye shall grant a redemption for the land." (Ibid. xxv. 24.)

No land which had been divided among the tribes of Israel can be sold forever. Unless the sale is made for a definite number of years, the Jubilee years prescribe such sale, and the land reverts back to its original owner or his heirs. All such land is subject to redemption even before the Jubilee year prescribes it, but the owners must pay a proportional amount to the purchaser. The Jubilee year prescribes all manner of alienation of property rights.

(8) "And if a man sell a dwelling house in a walled city; then shall the time of redemption last till the end of the year of his sale." (Ibid. xxv. 29.)

All cities which were walled-in during the days of Joshua, at the time of the conquest, come within the meaning of this law. All cities which were subsequently walled-off are considered ordinary cities as regards the laws of redemption and prescription. A house in a walled-off city, within the meaning of this law, could be redeemed only within twelve months after it was sold. The Jubilee year does not prescribe such sale, or transfer. Houses in other cities can also be redeemed within twelve months after the sale, but, in addition, if the owner fails to redeem it, the Jubilee year will prescribe such sale.

(9) "Command the children of Israel, that they give unto the Levites from the inheritance of their possession cities to dwell in." (Num. xxxv. 2.)

The Levites could, under the terms of this law, redeem their right of property in such cities, or in the parks allotted to them, any time they wished. The law of redeeming such property is applicable to the land and not to the person. Therefore, a descendant of a Levite even through the female line, has a right to redeem such property.

The prohibitive laws of the subject of this chapter are: (10-11-12-13) Not to seed; not to prune; not to reap; and not to gather. The latter laws mean reaping or gathering as in ordinary years during harvesting. (Lev. xxv. 4-5.). (14-15) Not to refrain from giving credit or lending to a neighbor because of the laws of Shemita, and not to exact

the debt after it was prescribed by such laws. (Deut. xv. 2.). (16-17-18) Not to work the land during the Jubilee year; not to reap the harvest that grows of its own accord in the same manner as ordinary crops; not to gather in the fruit of the trees during Jubilee years in the same manner as in ordinary years. (Lev. xxv. 11.). (19) Not to sell land of Palestine forever. (Ibid. xxv. 23.). (20-21) That the Levites shall have no portion in the booty of the land along with the rest of Israel; nor any inheritance in the land itself. (Deut. xviii. 1.). (22) Not to change about the locations of the allotted cities, or parks reserved for the Levites. (Lev. xxv. 34.)

CHAPTER III

כלי המקדש, ביאת המקדש, כהונה, קרבנות, טהרה, נדה

THE LAWS CONCERNING THE TEMPLE, PRIESTHOOD, SACRIFICES, AND HYGIENE ARE BASED UPON EIGHTY TWO MANDATORY AND FIFTY-FOUR PROHIBITIVE COMMANDMENTS.

Introduction: The purpose of this chapter is not exegetical. The subject being academic, touching as it does only the ceremonial and ritualistic branch of Judaism during the Palestinian era, the reason thereof is obvious. The commandments are here grouped so that the student, with the aid of the brief explanations given in every paragraph, will be able to gain a comprehensive knowledge of the elementary principles of *Abodah, Korbonoth, and Taharoth.*

(1-2-3-4-5-6) "And they shall make me a sanctuary; and I will dwell in the midst of them." (Exod. xxv. 8.) "And my sanctuary shall ye reverence." (Lev. xix. 30.) "And they shall keep thy charge, and the charge of all the tabernacle." (Num. xviii. 3.) "And ye shall keep the charge of the sanctuary." (Ibid. xviii. 5.) "Thou shalt not build it (the altar) of hewn stone." (Exod. xx. 25.) "Neither shalt thou go up by steps upon my altar." (Ibid. xx. 26.)

The commandment to build a sanctuary (*Beth-ha-Mikdash*) includes all its parts and vessels. The spiritual center of the people is to be the

sanctuary, or Temple. The Temple consists of four main apartments, the court, the vestibule, the holy, and holy of holies—*Azarah, Ulom, Kodesh, Kodeshe-Kodoshim.* The altar is built at the Azarah, in the south end, near the Ulom. No hewn stones, or any stones which had been touched by any iron instrument, are permitted to be used in building it. Between it and the Ulom is placed the laver and its supports for the use of the priests, so arranged, southward, that it is to the left as one entered. The golden altar upon which the incense is burnt, the table upon which the show-bread is placed, and the Menorah are placed in the Kodesh apartment, toward the Kodeshe-Kodoshim, so arranged that the altar is to the left as one enters, the table to the right, and the Menorah in the center. The exact place of the altar in the Azarah is identified as that historic spot upon which Isaac was to have been sacrificed. In the Second Temple the place was pointed out by one of the three prophets who accompanied the remnant of Israel which came back from Babylon. The Ark of the Covenant rests upon a single stone, in the Kodeshe-Kodoshim. The whole Mount Moriah is surrounded by a stone wall which has five gates, one to the east, one to the west, one to the north and two to the south. Within the Azarah are built different rooms or Lishkoth, for the use of the priests. To the east of the Azarah is the women's court—*Ezrath Nashim.* All the laws pertaining to the erection of the Temple will again be in force when the Jewish people will be re-established in Jerusalem.

(7-8-9-10-11-12-13-14-15-16-17-18-19-20) "And thou shalt make of it an oil of holy anointing." (Exod. xxx. 25.) "Upon the flesh of man shall it not be poured." (Ibid. 32.) "And its proportion shall ye not make anything like it." (Ibid.) "And as for the incense which thou shalt make, according to its proportion, shall ye not make any unto yourselves." (Ibid. xxx. 37.) "Ye shall not offer thereon (altar of incense) any strange incense, or burnt-sacrifices, or meat-offering; and a drink-offering shall ye not pour thereon." (Ibid. xxx. 9.) "Because the service of the sanctuary belonged unto them, they were to bear (the Ark of the Cove-

nant) upon their shoulders." (Num. vii. 9.) "In the rings of the ark (of the Covenant) shall the staves remain; they shall not be removed therefrom." (Exod. xxv. 15.) "But they of the tribe of Levi themselves shall perform the service of the tabernacle of the congregation." (Num. xviii. 23.) "Only unto the vessels of the sanctuary and unto the altar shall they (the Levites) not come near." (Ibid. xviii. 3) "And thou shalt sanctify him (the priest) . . . holy shall he be unto thee." (Lev. xxi. 8.) "Then can he minister in the name of the Lord his God, like all his brethren the Levites . . . They shall have like portions (during holidays)." (Deut. xviii. 7-8.) "And they shall make holy garments for Aaron thy brother, and for his sons, to be a priest unto me." (Exod. xxviii. 4.) "So shall it be thereon that it (the robe of the Ephod) be not rent." (Ibid. 32.) "And that the breastplate (Hoshen) be not loosed from the ephod." (Ibid. 28.)

These are the commandments concerning the vessels and the persons belonging to the service of the Temple. The oil of anointing (*Shemen ha-Mishah*) is employed only to anoint High Priests, kings of the House of David, and the anointed priest during war time (*Mosuah Milhama*). Of among the Levites are selected the guards, the gate-keepers, the singers and the musicians of the Temple. Before a Levite is admitted to his duties he has to receive five years' training. Distinguished Israelites are permitted to join the choir of the Levites, which consists of no less than twelve members. After the Temple is built no Levite is retired at the stated age of fifty years. The only thing which disqualifies a Levite is the loss of his voice, when he can join the guards. The priests have to confine themselves to their duties solely, and serve under their immediate chiefs, which, from the days of David, number twenty-four, each chief representing a different *Mishmor,* the latter continuing to relieve each other, every Sabbath. On holidays, however, all priests have an identical right to participate in offering sacrifices and in receiving portions thereof, the particular Mishmor notwithstanding. But this does not include offerings of vows, donations, or the usual daily offerings,

which have to be under the charge of the priests directly under the chief of the week's Mishmor. Every Mishmor is subdivided into families—*Bothe-Ab*, so that each *Beth-Ab* ministers weekly one day. The High-Priest is the head of the entire priesthood. He is anointed seven days in succession. He has to change his garments seven consecutive days before he is formally inducted in his office. Only a tribunal of seventy-one members (*Sanhedrei Gedalah*) can elect a High-Priest. There is one High-Priest, two Generals (*Catholiques*) and seven Marshals, who have charge of the keys of the Azarah, no single one of whom can open it, without all of them being present. Immediately under the Marshals are appointed three chamberlains who have charge of collections and disbursements connected with the Temple. The anointed priest for war purposes, after the end of such war, is no more than an ordinary priest; and his office is not hereditary. The High-Priest must be a pure, healthy, wise, well-built and rich man. In every respect he should be removed from any temptation whatever. And, rarely will a man, possessing all these qualifications, fall by temptation. A High-Priest is punished for any crime as any ordinary person, and if such crime does not disqualify him, he is permitted to resume his duties as hitherto. His residence must be in Jerusalem, and he is forbidden to leave the Holy City. Most of the day he must spend in the High-Priest's office (Liskah) at the Temple. There are also twenty-four groups of representatives of the laymen to be present at the service and daily sacrifices. Each group elects its own head. They change about in the performance of their duties in the same manner as the twenty-four Mishmorim of the priests (*Maamodoth*). The laymen have also what is known as the "wood festival." Each lay family must cut some wood and bring it to the Temple as an offering, and the day a given family brings such wood is considered a holiday by it. There are in all fifteen heads of as many departments in connection with the administration of the Temple, ranging from the time-keeper to the tailor who makes the priestly garments.

(21-22-23-24-25-26-27-28-29-30-31-32-33-34-35) "Wine or strong drink shalt thou not drink." (Lev. x. 9.) "The hair of your head you shall not let grow, and your garments ye shall not rend." (Ibid. 6.) "Speak unto Aaron thy brother

that he come not at all times into the holy place within the vail." (Ibid. xvi. 2.) "And from the door of the tabernacle of the congregation shall ye not go out." (Ibid. x. 7.) "If there be any man of all your seed (priest) that approacheth unto the holy things . . . having uncleanness upon him, that soul shall be cut off from my presence." (Ibid. xxii. 3.) "And whosoever is defiled . . . Both male and female, shall ye send out to without the camp . . . that they defile not their camps." (Num. v. 2-3.*) "Then shall he (the unclean person) go abroad to without the camp." (Deut. xxiii. 11.)** "That they keep themselves away (when unclean) from the holy things of the children of Israel, so that they profane not my holy name." (Lev. xxii. 2.) "Holy shall they be unto their God, and they shall not profane the name of their God." (Ibid. xxi. 6.‡) "And Aaron and his sons shall wash out of it (the laver) their hands and their feet." (Exod. xxx. 19.) "Only unto the vail, and unto the altar shall he not come nigh, because there is a blemish on him." (Lev. xxi. 23.) "Whosoever of thy seed in their generations it be on whom there is any blemish, shall not approach to offer the bread of his God . . . For whatsoever man it be on whom there is a blemish shall not approach, a blind, or a lame man, etc." (Ibid. xxi. 18-19.) "And a stranger shall not come nigh unto you." (Num. xviii. 4.)

The regulations to be observed by the priests, who are to be the spiritual leaders of the people, touch every phase of their lives. Sobriety is essential. Uniform dress is obligatory, because of the distinction it confers upon them. The High-Priest has no right to enter the holy of holies save only on the Yom-ha-Kipurim. From without the door of the people's court (*Azarath Israel*) and onward is known as the Camp of God (*Mahney ha-Shehinah*); from the Mount Moriah till the Azarath Israel (*Shaar Niknor*) is the Levite's Camp (*Mahney Leviyeh*); and the entire

* Mahney ha-Shehinah.
** Mahney Leviyeh.
‡ The second warning is concerning a priest who had immersed in water but night had not yet approached.—Tebul-Yom.

City of Jerusalem was the Camp of Israel (*Mahney Israel*). No unclean persons can come within the limits of the Mahney ha-Shihinah; some unclean persons must not come within the limits of the Mahney Leviyeh; and some must not come within the limits of even the Mahney Israel. A leper can not be within the limits of either of the three Mahanoth. A catamenial woman can not enter the second Mahney. One who came in touch with a corpse is barred from the Mahney ha-Shehinah only, as the dead were permitted to be brought on Mount Moriah. Moses took along the remains of Joseph within the Mahney-Leviyeh. There are in all an hundred and forty different blemishes, either of which disqualifies a priest from attending his duties. They are distributed among the different parts of the body as follows: eight in the cranium cerebral; two in the thoracic cavity; nine in the ears; five in the eye-brows; seven in the eye-lids; nineteen in the eyes; nine in the nose; nine in the mouth; three in the abdomen; three in the spine; seven in the hands; sixteen in the genitals; twenty in the legs and feet; eight in the body; eight in the skin; seven in the respiratory system; and loss of the teeth, and loss of the hair of the eye-lids, although the roots are left intact. In all there are eighteen different disqualifications, which render such persons unfit for the service of God in the Temple. They are: a worshiper of any strange gods; a non-priest; a blemished person, even a priest; an uncircumcised priest;* an unclean priest;† if the immersion in water took place during the day in order to come out of such uncleanness (*Tebul Yom*) before nightfall; want of atonement (*Mehussar Kipurim*), after a priest sinned; before the inhumation of the remains of either of the seven near relatives (*Onon*); a drunken priest; want of the designated garments; additional garment; torn garment; overgrowth of hair;‡ failure to wash the hands and feet; remaining in a sitting position; a glove or any other thing which separates the bare hands from the holy vessels during the service; shoes, stockings, or other thing which separates the bare feet from the floor; one who performed the service with left hand. All these, save only overgrowth of hair, torn garments, or one who served strange gods in error, if they have officiated, the services are of no effect.

* Even he be so because of his brother's death as a result of the operation.
† Before immersion in water.
‡ Longer than thirty days' growth.

(36-37-38-39-40-41-42-43-44-45-46-47-48-49) "If there be any man . . . that offereth his oblation . . . Then shall it be, that it may be favourably received for you, a male without a blemish of the oxen. . . . Whatsoever on which there is a blemish shall ye not offer. . . . Ye shall not offer these (blemish animals) unto the Lord. . . . A blind, etc. . . . shall ye not make of them upon the altar unto the Lord." **** (Lev. xxii. 18-23.) "Thou shalt not sacrifice unto the Lord thy God any . . . whereon there is a blemish." † (Deut. xxvii. 1.) "And from a stranger's hand shall ye not offer the bread of God from any of these (blemished) animals." (Lev. xxii. 25.) "No kind of bodily defect shall be thereon." ‡ (Ibid. 21.) "The unclean and the clean may eat thereof (of a sacrifice animal which became physically defected, and which was redeemed, and with the proceeds thereof replaced a sound animal) as of the roebuck and as of the hart." (Deut. xii. 15.) "And from the eighth day and thenceforth shall it be favourably received for an offering." (Lev. xxii. 27.) "Thou shalt not bring the hire of a harlot, or the price of a dog, into the house of the Lord thy God for any vow." (Deut. xxiii. 19.) "For of whatever is leaven, or of any honey, ye shall not sacrifice an offering." (Lev. ii. 11.) "And every oblation of thy meat-offering shalt thou season with salt; and thou shalt not suffer the salt of the covenant of thy God to be lacking from thy meat-offering." (Ibid. 13.)

(50-51-52-53-54-55-56-57-58-59-60-61-62-63-64-65-66) "If his offering be a burnt-sacrifice of the herds, then shall he offer, etc." (Levfl i. 3.) This commandment charges the priests to perform the rites due to a burnt-sacrifice.* "This is the law of the sin-offering." ** (Ibid. vi. 18.) "And this is

§ These four warnings forbid to designate, offer, sprinkle the blood of, or burn the entrails of a blemished animal.
** Even if such blemish is curable.
†† This forbids to blemish an animal designated as a sacrifice.
* Olah.
** Hatoth,

the law of the trespass-offering." *** (Ibid. vii. 1.) "And this is the law of the sacrifice of peace-offering." (Ibid. ii.)† "And when any person wish to offer a meat-offering unto the Lord; then shall his offering be, etc." ** (Ibid. ii. 1.) "But he shall not divide it (the fowl of the sin-offering) asunder." †† (Ibid. v. 8.) "And they shall eat those things wherewith the atonement was made." (Exod. xxix. 33.) This gives the priests the right to enjoy parts of the sacrifices. "He shall not put upon it (the meat-offering) of a sinner who is poor (*Minhah*) any oil, nor shall he put thereupon any frankincense, for it is a sin-offering." (Lev. v. 11.) "It (the Minhah) shall not be baked leaven." (Ibid. vi. 10.)†† "And what is left thereof shall Aaron and his sons (male priests only) eat." (Ibid. 9.) "And thither shalt thou come. And ye shall bring thither your burnt-offerings, and your sacrifices, and your tithes, and your heave-offering of your land, and your vows, and your free-will offerings." (Deut. xii. 5-6.) This commandment charges all Israel to bring the offerings of the year at the holiday immediately following such offering, or vow. "Thou shalt not delay to pay it." (Ibid. xxiii. 22.) "But in the place which the Lord will choose in one of thy tribes, there shalt thou offer thy burnt-offerings." (Ibid. xii. 14.) "Nevertheless, thy holy things which thou mayest have, and thy vows, shalt thou take, and go unto the place which the Lord may choose." (Ibid. 26.) This includes holy things which one may have in foreign lands. Any man whatsoever of the house of Israel, that killeth (a sacrifice animal) an ox, or a sheep, or a goat, in the camp, or that killeth it out of the camp. And bringeth it not to the door of the

*** Asham.
† Shelamim.
** Minhah.
†† Sever the head from the neck.
‡‡ See Supra, Forbidden Food (46).

tabernacle of the Lord, (Azarah) . . . and that man shall be cut off from among his people." (Lev. xvii. 3-4.) "Take heed to thyself that thou offer not thy burnt-offerings in every place which thou mayest see." (Deut. xii. 13.) This forbids offering of any sacrifice outside of the Azarah.

All sacrifices from living creatures were brought from among five different species only. They are: Ox, sheep, goat, pigeon, and turtle-dove. Sacrifices in general, whether private or public, are four kinds: Burnt-offering, *Olah;* sin-offering, *Hatoth;* trespass-offering, *Asham,* and peace-offering, *Shelomim.* All public offerings are either Olah or Hatoth, save only the two sheep which were offered on Shebout, which were called public peace-offerings—*Sibho Shalmey Zibur.* But there is never a public Asham, or an offering of a fowl.

(67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-83-84-85) "Sheep of the first year without blemish, two on every day, as a continual burnt-offering. The one sheep shalt thou prepare in the morning, and the other sheep shalt thou prepare toward evening." Num. xxviii. 3-4.)* "A perpetual fire shall be burning upon the altar; it shall not go out."** (Levfl vi. 6.) "And he (the priest) shall lift up the ashes which the fire hath made by consuming the burnt-offering on the altar, and he shall place them beside the altar." (Ibid. 3.) "And Aaron shall burn thereon incense of spices every morning; and when he dresseth the lamps shall he burn it." (Exod. xxx. 7.) "That they bring thee pure olive oil . . . to cause a light (in the Menorah) to burn always." (Ibid. xxvii. 20.) "This is the offering of Aaron and of his sons, which they shall offer unto the Lord on the day when he is anointed." (Lev. vi. 13.) This commandment refers to the daily offering of the High Priest, or of the anointed priest for war (*Hebitey Cohen-Godol*). "And on the Sabbath-day two sheep of the first year without blemish." (Num. xxviii. 9.) This offering is the Sab-

* Korban Tamid.
** Be put out.

bath Addition—*Korban-Musaph*. "And thou shalt set upon the table show-bread before me always. On every and each Sabbath day shall he place it" (the show-bread). Exod. xxv. 30; Lev. xxiv. 8.) "And on the beginnings of your months shall ye bring as a burnt-offering unto the Lord two young bullocks, and one ram, seven sheep of the first year without blemish." (Num. xxviii. 11.) "And ye shall offer an offering by fire unto the Lord seven days." (Lev. xxiii. 8.) This commandment refers to the Korban-Musaph of the seven days of Passover, which consist of the same number, and is identical as the New-Moon Korban-Musaph. "Then ye shall bring an Omer full of the first of your harvest unto the priest." (Ibid. xxiii. 10.) This is an offering consisting of an Olah (Ibid. 12), together with the Omer of barley brought on the second day of Passover in addition to the Korban-Musaph. "And ye shall count unto you from the morrow after the holy day, from the day that ye bring the Omer of the wave-offering, that it be seven complete weeks." (Ibid. 15.) This is referred to the period from the second day of Passover till the Feast of Weeks —*Sephirah*. "And on the day of the first-fruits . . . ye shall bring a burnt-offering." (Num. xxviii. 26.) The Korban-Musaph of Shebuoth is the same as that of Passover. "Out of your own habitations shall ye bring two wave-loaves." (Lev. xxiii. 17.) With the wave-loaves was brought a special offering, consisting of seven sheep, one ox, and two rams as Oloth; a goat as a Hatoth, and two sheep as a peace-offering—Kabshey-Azereth. "And ye shall prepare as a burnt-offering." (Num. xxix. 2.) This refers to the Korban-Musaph of Rosh-ha-Shanah. "And on the tenth day of this seventh month (Yom ha-Kipurim) . . . ye shall bring as a burnt offering, etc." (Ibid. 8.) The Korban-Musaph of the Atonement is the same as of Rosh-ha-Shanah. "And on the fifteenth day of the seventh

month . . . ye shall bring as a burnt-offering, etc. (Ibid. 12-34.) These refer to the Korban-Musaph of each of the seven days of Sukkot. "On the eighth day (Shemini Azereth) . . . ye shall bring as a burnt-offering, etc." (Ibid. 35-38.) The Korban-Musaph of Shemini Azereth is the same as of Rosh-ha-Shanah and Yom-ha-Kipurim. During the seven days of Sukkot the Korban-Musaph of each day is diminished by one ox, commencing on the first day with thirteen. Two rams and fourteen sheep are obligatory on each of the seven days, all of which are Oloth, save the goat, which is a Hatoth.

(86-87-88) "He shall not leave any of it (the meat of the peace-offering) until the morning." (Lev. vii. 15.) The same rule is applied to all holy things of which the priests may eat, each offering according to the time allotted for its consumption. The warning is again repeated in Lev. xxii. 30. "But what is left of the flesh of the sacrifice on the third day shall it be burnt." (Ibid. vii. 17.) And the flesh that toucheth any unclean thing shall not be eaten, with fire shall it be burnt." (Ibid. 19.)

(89) "With this shall Aaron come into the holy place, etc. And this shall be unto you as a statute for everlasting, to make an atonement for the children of Israel for all their sins once a year." (Ibid. xvi. 3-34.) The details of this commandment the High-Priest was charged to carry out. There were fifteen animals sacrificed on the Yom-ha-Kipurim, the High-Priest officiating throughout the day. Seven days before Yom-ha-Kipurim the High-Priest moved to his Liskah in the Temple. A special Vice-High-Priest was appointed, so that there should be no possible interruption in the service. During those seven days elders of the judiciary instructed him in the laws and made rehearsals with him so that no errors be committed by him on Yom-ha-Kipurim.

(90-91-92-93-94-95-96-97-98-99-100-191) "Then the whole assembly of the congregation of Israel shall kill it (The Pascal

Lamb) toward evening." (Exod. xii. 6.) "Thou shalt not offer the blood of my sacrifice (Korban Pesah) with leavened bread." (Ibid. xxiii. 18.)* "Neither shall the fat of my festive sacrifice remain until morning." (Ibid.) This commandment charges not to keep the *Amurin* (fat and entrails) till the following morning, but to offer them during the night. The warning is again repeated in Ibid. xxiv. 25. "And they shall eat the flesh (of the Korban Pesah) in that night." (Ibid. xii. 8.) "Thou shalt not carry forth aught of the flesh (of the Korban Pesah) abroad out of the house." (Ibid. 46.) "And no bone shall be broken in it." (Ibid.) "And ye shall not let anything of it remain until morning." ** (Ibid. 10.) "Neither shall there any of the flesh, which thou sacrificedst in the evening, on the first day, remain all night until the morning." (Deut. xvi. 4.) There was a custom inaugurated to have slaughtered, along with the Korban Pesah, on the fourteenth day of Nisaan, if it fell on a week-day, and the groups were numerous, additional animals from either the herds or the flocks. The custom was based upon Ibid. 2, saying. "And thou shalt sacrifice the passover-offering unto the Lord thy God of sheep and of oxen." These offerings became known as *Hagigath Arba-Asar*. Against having any part thereof left till the second day of Pesah this warning is directed. "If any man whatever should be unclean . . or be on a distant journey . . . yet shall he prepare the passover-lamb unto the Lord: In the second month on the fourteenth day† toward evening shall they prepare it." (Num. ix. 9-11.) "With unleavened bread and bitter herbs shall they eat it." (Ibid.) "They shall leave none of it until morning." (Ibid. 12.) "And no bone shall they break on it." (Ibid.) *The Pesah-Shani* here referred to may be slaughtered even on a Sabbath, and all regulations pertain-

* See Supra, Laws of Passover.
** This refers to any part which is eaten
† Iyor, 14.

ing to the timely Korban Pesah are enforced, save only that there are no additional (Hagigath) animals offered.

(102-103-104-105-106-107) "Three times in the year shall every one of thy males appear before the Lord thy God in the place which the Lord will choose; on the feast of unleavened bread, and on the feast of weeks, and on the feast of tabernacles." (Deut. xvi. 16.) "And no one shall appear before the Lord empty (without a Korban)." (Ibid.) "Three times (Sholosh Rgolim) shalt thou keep a feast unto me in the year." (Exod. xxiii. 14.) "And thou shalt rejoice on thy feast, etc." (Deut. xvi. 14.) "Take heed to thyself that thou forsake not the Levite."† (Ibid. xii. 19.) "Assemble the people together, etc." (Ibid. xxxi. 12.) This commandment refers to what is designated in the Talmud as *Mizvath-Hakhal.* Once in seven years, at the beginning of a new Shemita, on the night preceding the second day of Sukkot, the people were summoned by trumpeters to appear in the Ladies' Court—Ezrath Nashim—and there, the king of Israel appeared upon a platform, surrounded by the dignitaries of the State and Temple, and read to the people selections of the Torah, and delivered a prayer consisting of seven benedictions.

(108-109-110-111-112) "And if any person of the common people should sin through ignorance by his doing any one of the prohibtions of the Lord . . . then shall he bring as his offering," etc. (Lev. iv. 27-28.) This refers to an "immutible offering"—*Hatoth Kebuah,* atoning such deeds as, when committed purposeful, would expose one to be cut off from among his people—*Koret.* "And he knew not whether he have incurred guilt, and so bear his iniquity. Then shall he bring," etc. (Ibid. v. 17-19.) This charge refers to one who is in doubt as to whether or not he committed any of the major sins. For example, one who had eaten something but does not know if it really was forbid-

† To make them joyful by bringing to them their due.

den food. This kind of sacrifice is designated as a conditional trespass-offering—*Asham Talue.* "And his trespass-offering shall he bring unto the Lord," etc. (Ibid. 25.) "And if his means be not sufficient," etc. (Ibid. v. 7-10.) A poor man brings offerings according to his means. A tenth part of an ephah measure of fine flour was sufficient to free his mind from the burden of sinfulness and start him anew upon the path of righteousness. This is an "up-and-down-offering"—*Korban Ailoh-ve-Yorod;* but it atones only certain sins, as, for example, having taken a false oath through ignorance. "And if the whole congregation of Israel sin through ignorance . . . then shall the congregation offer," etc. (Ibid. iv. 13-14.) The whole congregation may sin through an error on the part of the Great Sanhedrin, if it pronounces a wrong decision.

(113-114-115-116) "And on the eighth day she shall take unto herself two turtle doves, or two young pigeons," etc. (Lev. xv. 29.) "And at the completion of the days of her purification for a son, or for a daughter, she shall bring," etc. (Ibid. xii. 6.) "And on the eighth day shall he take unto himself," etc. . . . (Ibid. xv. 14.) "And on the eighth day he (the leper) shall take," etc. (Ibid. xiv. 10.) These four commandments refer to different unclean persons, who become so either through natural or accidental causes. Even after complying with all regulations regarding their respective purification, atonement comes about only by means of an offering. Before they bring such offering they are designated as—*Mehusrey-Kaparah*—wanting atonement.

(117) "This is the law, when a man dieth in a tent; every one that cometh into the tent, and all that is in the tent, shall be unclean seven days." (Num. xix. 14.) The Levitical laws of purification are the groundwork of all hygienic and sanatary regulations of all civilized peoples. The subject has

been treated by scientists the world over. Nevertheless, it is through the ritual character that was given to the subject that some of these laws remain in force, in so far as is consistent in diaspora. There are twelve different parts of the dead which convey defilement. Some contract uncleanness either by touching, carrying, or being in the same tent with certain parts of the dead; others only by carrying the dead or by being present in the same tent, but not by touching; and still others by touching, or by carrying, but not by being present in the same tent.* The uncleanness affects not only persons but everything in the line of clothes, dishes, or furniture.†

(118-119) "Speak unto the children of Israel, that they bring unto thee a completely red cow," etc. (Ibid. xix. 2.) "And a man that is clean shall gather up the ashes of the cow, and lay them up without the camp, in a clean place; and it shall be kept for the congregation of the children of Israel for a water of sprinkling: it is a purification offering." (Ibid. 9.)

The offering of the red cow took place without the Azarah. The ashes were divided in three parts; one part the priests took; the other was for the whole people; and the third was stored away. In all there were to be offered ten such red cows. One was offered by Moses, one by Ezra, seven during the Second Temple; and the tenth one will be offered when the reunion of Israel in Jerusalem will come to pass. The sprinkling water was made of pure spring-water mixed with the ashes of the burnt red cow. Such water has a paradoxical effect; it purifies the unclean, and contaminates the pure.

(120-121-122-123-124-125-126-127) "If a man shall have in the skin of his flesh a swelling, a rising, or a bright spot, and might become in the skin of his flesh the plague of leprosy;

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* A corpse, or any part of human remains, bring about defilement in either Maga, Massa, or Ohel; a bone of a deceased person, even the size of a barley-seed, defiles only he-Maga u-Massa; decayed flesh of a deceased person defiles only [illegible]

† The period of purification in all instances of defilement is seven days.

then shall he be brought unto Aaron the priest, or unto one of his sons the priests." (Lev. xiii. 2.)

There were two principal and two secondary symptoms of the dreaded disease for which the priests were to look out in pronouncing whether or not the subject under observation suffered from leprosy. If its color was either of snow, of wool, of lime, or of the white of an egg, the subject under observation had to be isolated. "Take heed of the plague of leprosy, to observe diligently, and to do according to all that the priests, the Levites, may instruct you." (Deut. xxiv. 8.) This is a warning to the priests not to destroy the symptoms of leprosy, or deny its presence. "But the scall he shall not shave." (Lev. xiii. 33.) This is a warning against hiding or destroying the symptoms of scall or scurvy, either in a person, vessel, or house. "And the leper on whom the plague is, his clothes shall be rent, and the hair of his head shall be grown, and he shall cover himself up to his upper lip, and, unclean, unclean, shall he call out." (Ibid. xiii. 45.) Even if the subject is the High-Priest, who, otherwise, is forbidden to rent his garments, or have his hair overgrown, must submit to this form of publicity and isolation. "This shall be the law of the leper on the day of his being cleansed," etc. (Ibid. xiv. 2.) "And it shall be on the seventh day, that he shall shave . . . and he shall wash his clothes, he shall also wash his flesh in water, when he shall be clean." (Ibid. 9.) The procedure of re-admitting a leper to society is this way: When the dreaded disease is pronounced cured the priest brings a measure (*Rebiyt*) of water in a bowl, and two clean birds, one of which is slaughtered and its blood spilled in the bowl, and the mixture of blood and water is sprinkled upon the former leper. The dead bird is buried, and the live one, the priest, standing within the gate of the city, turns loose without the gate of the city. This is the first period of purification. Then the subject remains isolated seven days more, when the second purification of shaving, washing his clothes and the immersion of his flesh in a water-font takes place. Then, on the evening preceding the eighth day he rejoins society. Leprosy is looked upon as a plague inflicted for having committed the sin of slander, sycophancy, or arrogance. In purifying him the sprinkling is done with cedar wood,

scarlet yarn, and hyssop, so that it be pointed out to him that it is not wise to consider one's own self as high as a cedar-tree and have to be humbled like a hyssop and a worm, which resembles the scarlet yarn. Moreover, he prattled, let him witness the sight of what can be done to the chattering birds. "And if there be a garment on which there arise a plague of leprosy." (Ibid. xiii. 47.) That the ancient Israelites knew what is now considered advanced science is clearly indicated by these laws, which bring home the danger of contagion. Moreover, the forms of leprosy developed in clothes are identified by special symptoms. If the woolen or linen garments have blood-red, or grass-green color spots, it is a certain case of leprosy. "And I put the plague of leprosy on a house," etc. (Ibid. xiv. 34.) The symptoms in a house are the same as in garments.

(128-129-130-131) "Then shall she (the menstruous woman) be in her state of separation seven days." (Ibid. xv. 19.) The seven days begin when the catamenia ceases. "And if a woman have (menses) out of the time of her separation," etc. (Ibid. 25.) If the irregularity continues three successive days, the rules of ordinary catamenial seven clear days must be followed; but if it occurs during one, or even two days, one clear day's separation is sufficient.* "If a woman have . . . born a male child," etc. (Ibid. xii. 2-5.)

This commandment orders the periods of separation of woman after confinement, in which she has forty days' time to become purified after the birth of a male child, and eighty days' time with a female child, the minimum being seven and fourteen days, respectively. But in either instance it is essential to begin a seven-day period of purification after catamenia ceases. "Speak unto the children of Israel, and say unto them, When a man have," etc. (Ibid. xv. 2.) All these forms of uncleanness in persons render everything they sit or lie on unclean. They must be totally separated from everybody and everything.

* Irregular menses is possible during eleven days following regular catamenia.

(132-133-134) "And if any cattle die, which is allowed to you as food; he that toucheth its carcass shall be unclean." (Ibid. xi. 39.)

This commandment refers to Nebelah, which includes also animals not properly slaughtered.† "And these shall be unclean unto you among the creeping things that creep upon the earth." (Ibid. 29.) This commandment refers to the eight kind of creeping things—*Sherozim*—which are conveying uncleanness to one who touches such carcass or any part thereof. In Ibid. xv. 16, mention is made of the third commandment in this paragraph, which refers to another form of defilement in man.

(135) "All kinds of food which may be eaten, on which water cometh, shall be unclean; and all drink that may be drunk shall be rendered unclean in every vessel." (Ibid. xi. 34.)

This commandment refers to contamination which is conveyed from an unclean thing to things which are fit to eat or drink. Eatables include only such food as is either fit or intended for human consumption; liquids include only honey, wine, oil, milk, dew, blood and water.

(136) "He shall also wash his flesh in water, when he shall be clean." (Ibid. xiv. 9.)

All those who must undergo a period of uncleanness, from any cause whatever, before they may again enjoy social privileges and contact, must be immersed in a water-font which contains at least forty measures—**saoh**—of water, which flows directly in the font from either a spring, rain, or **resevoir. The water must not be left stationary lest it changes color.** Without immersion—Tebilah—purification is impossible.

The elementary outline of *Abodah, Korbouoth* and *Taharot* in this chapter is not intended as a code—*Shulhan Aruoh*—from which to apply some laws which are still in vogue. It is merely given to the student as a foundation for further study, particularly the student who aims at a Rabbinical profession, or one who is interested in Maimonides' Yad-ha-Hazakah, or one who desires a liberal conception of the principle of this branch of Judaism.

† See supra Laws of Trephah.

CHAPTER IV

אבלות

THE LAWS OF MOURNING FOR THE DEAD ARE BASED UPON ONE MANDATORY AND THREE PROHIBITIVE COMMANDMENTS

(1) "None of them (the priests) shall defile himself on the dead among his people." (Lev. xxi. 1.)

(2) "Neither shall he (the High-Priest) go in to any dead body." (Ibid. 11.)

(3) "Even on his father and on his mother shall he not defile himself. (Ibid.) This also refers to the High-Priest.

(4) "But on his (the priest's) kin, that is near unto him, that is, on his mother, and on his father, and on his son, and on his daughter, and on his brother. And to his sister that is a virgin." (Ibid. xxi. 2-3.) "And Aaron spoke unto Moses, Behold, this day have they offered their sin-offering, and their burnt-offering before the Lord; and things such as these have befallen me; and if I had eaten the sin-offering to-day, would it have been pleasing in the eyes of the Lord?" (Ibid. xi. 19.)

From these passages in the Torah the Rabbis infer that mourning after the death of seven relatives—*i. e.,* wife, father, mother, son, daughter, brother and sister—is mandatory. At least the first day's mourning is a mandatory commendment of the Torah, as Aaron plaintively points out to Moses that he could not partake of the sin-offerings on the day his two sons died. Moreover, when the priests, who must not defile themselves by being near the dead are charged to defile themselves at the death of the enumerated relatives, it is obvious that mourning after the death of either of the seven relatives is obligatory.

The High-Priest was forbidden to defile himself on any dead body, not even on that of his father or mother. But if he chanced along on the road and found the remains of an Israelite on the way, and none near

to do it, he had a traditional right to defile himself and bury them. Such burial was mandatory upon him—*Meth Mizvah.*

Abraham ordered that the dead shall be disposed of by placing the corpse in the earth. (Gen. xxiii. 19.) Such was the Hebrew form of inhumation from the very inception of Jewish history.

Moses instituted a period of seven days' mourning for the loss of either of the seven relatives. During the time funeral preparations are being made, the mourner is excused from every religious obligation. After the funeral it is customary for friends of the bereaved to provide the meal of consolation—*Seudath-Habroyce.*

Gamliel II ordered that all the dead, rich and poor alike, shall be buried in plain linen, and not each one in garments according to the means of the family, as had been the custom before his day.

During the period of mourning it is forbidden to sit upon a chair, bathe, trim the hair, wear shoes, new clothes, do any work, study the Torah, save book of Job, or Lamentations, do business, or walk on the street. These are the regulations of *Shibah.*

The Rabbis, at a later period, have inaugurated a still longer period, extending the seven-day limit to that of thirty days—*Sheloshim*—basing their reason upon Deut. xxi. 13, where the captive is ordered to "weep for her father, and her mother a full month." But during Sheloshim the things forbidden are limited to travel in foreign countries for commercial purposes, marry, visit places of amusements, wear new clothes, or trim the hair.

Upon the demise of a father, or a mother, or upon hearing of the demise of either, even if it be after thirty days since such demise happened —*Shemuah-Rohokah*—the mourner must make a rend on the left side of his coat or vest-coat as a manifestation of sorrow, thereby saying: "Blessed be thou, O Lord, King of the universe, who art a Truthful Judge." Upon the demise of all other of the seven relatives, or of one's teacher, or of the spiritual head of a community, or upon seeing the desolate cities of the Holy Land, or the ruins of the Temple, or upon learning of a massacre in a Jewish city, or of the burning of the Scrolls

of the Torah, or upon hearing words of blasphemy against God, the rend is made on the right side of the garment. The benediction is the same.

The *Kadish* is recited by the mourner for a period of eleven months, it being the opinion of the highest Rabbinical authorities that only the most wicked in Israel are judged, before their souls get final repose, fully twelve months. *The Kadish is not a prayer for the dead.* It is a prayer for the glorification of God, and for the establishment of an era of peace upon earth. There is special memorial prayer—*Yzkor*—for the dead, but it is recited only on Yom-ha-Kipurim, Shemini-Azeret, the last day of Pesah, and the second day of Shebuot.

No public manifestation of mourning is permitted on Sabbaths and holidays. If a demise occurs on the eve of a holiday, and the funeral takes place before sun-set, the mourner is released from observing the seven days' period of mourning. Moreover, the thirty days' period is, under such circumstances, reduced as follows: After Rosh-ha-Shanah, or Yom-ha-Kipurim, by seven days; after Pesah, or Shebuot, by fifteen days; after Sukkot, by twenty-two days.

If after the period of Shebah a holiday intervenes, the mourner is released from the thirty-days' period. If a death occurs during a holiday, the period of mourning begins only at the termination of such holiday; but in diaspora the last day of Pesah, or Shebuot, or Sukkot s deducted from the Shebah and Shloshim, notwithstanding that in diaspora the day is observed and no open manifestation of mourning is permitted therein.

A suicide, if the act was not done while insane, or in actual distress, as King Saul, loses every rite of Jewish burial, and no mourning is permitted after him.

Where death was from natural causes, and no near relatives are expected from distant points, and the civil law of the place be not against it, the remains must be buried before nightfall of the day of the demise.

The remains of one who met death by accident, or by violence, must not be disturbed, and they are buried in the clothes the victim had on before such death overtook him.

If a woman dies during pregnancy, efforts must be made to separate from her remains the dead issue, and bury them in one grave, as is the custom when both mother and babe die during confinement.

Such are in brief the essential regulations concerning burial instituted by the Rabbis and incorporated as part of traditional Judaism. They are, in part, to the glory of both, the dead and the living. Life is but a passing shadow—the shadow of a bird in his flight—away flies the bird, and there remains neither bird nor shadow. Yet, what great achievements might be accomplished in a lifetime! The span of life, at its termination, appears to have been but a shadow, a dream; but while it did last, lo, how purposeful the shadow, how real the dream can be made to be!

Life's journey might terminate any time; the soul, as the great sage, Hillel, said, is but a guest upon earth. Shall our endeavors be heavenward, or shall we quicken our pace nearer earthward—to our grave, to silence, to chaos?

Judaism disowns the idea that we must continue to die during our whole lifetime. Life upon earth is a preparatory school for that life which is eternal. As such life's end can be reached by worthy means only. In keeping ourselves occupied with life's purposes, death does not at all enter our minds.

We need not, according to the doctrines of Judaism, look upon the mystery of creation with pessimism. Judaism is characteristically not a pessimistic religion.

Only on occasions as when a near relative departs from us, we are advised to mourn, to study "the conclusion of the whole matter," to endeavor to fathom the depths of our souls, to discover "whence we came and whereto we go." What we are permitted to know is but infinitesimal alongside the rest which is yet between heaven and earth. Pure thoughts ever lead to righteous actions. And, of such is the reason for having inaugurated periods of mourning after relatives. When death is brought home to us, we witness the realities which otherwise appear but distant shadows. And, the conclusion of the whole matter is—to fear God.

BOOK V

ספר חמישי

נזיקין — קנין — משפטים — שופטים

CHAPTER I

גזלה, אבדה, חובל, מזיק, רוצח

THE JEWISH SYSTEM OF CRIMINAL JURISPRUDENCE IS BASED UPON SIXTEEN MANDATORY AND NINETEEN PROHIBITIVE COMMANDMENTS

INTRODUCTION: The world's private law is founded upon ancient customs and usages, the origin of which cannot be accredited to either a given place, period or people. Students of comparative jurisprudence, however, agree that law in general is derived from man's instinct to live after a formulated set of rules of conduct. The first rules of conduct among the primitive men were characteristically and essentially religious. The ancient Tities, Ramnes, and Luceres had their respective *curiae,* each of which had its own *curio* and *curia;* and from among those early Romans, at the meetings held in the curia, and presided over by the curio, may be traced no mean proportion of the present-day common law.*

But, considering that the accepted date of the foundation of Rome is 753, B.C.E, and that the laws of the xii Tables were promulgated in 499 B.C.E., the question arises: Were the Romans the real inventors of what is now the common law? Moreover, the greatest Roman jurists, Julian, Papinian and Ulpian,† upon whose works Justinian built his Digest and Institutes, lived long after the Romans came in contact with the Jews and knew all of their laws and customs.‡ Antoninus Pius and Hadrian, according to Tamudical authorities, had full knowledge of the Jews and their laws. Might it not be possible

* See F. P. Walton's Introduction to Roman Law, second edition, 58.

‡ All three lived after the conquest of Jerusalem, and the Justinian's Institutes were published Nov. 21, 533, A. C. E.

† The latter were Syrians. See Sohm's Institutes, third edition (Oxford), pp. 99-101 and 299.

that Rome built upon the ruins of Jerusalem not only its fame as having conquered the God-chosen people, but even as the mother of the written law?

Be it as it may, the truth remains that private law, both written and unwritten, is based upon the principles of the Torah. In detail, such as procedure, or method of punishment, there is a striking difference between Roman and Jewish jurisprudence; but fundamentally one must be an offshoot of the other, as they both are identical in character and in aim.

Entering upon an outline of the Jewish system of jurisprudence, the student must bear in mind that the work is entirely elementary, and the greatest efforts were utilized to limit the subject to principles only.

(1) "And if one man's ox hurt the ox of another." (Exod. xxi. 35.)

(2) "If a man cause a field or a vineyard to be eaten off, and he let his beasts enter, and they feed in another man's field." (Ibid. xxii. 4.)

(3) "And if a man open a pit, or if a man dig a pit, and do not cover it, and an ox, or an ass fall therein." (Ibid. xxi. 33.)

(4) "If a fire break out, and meet with thorns, so that stacks of corn, or the standing corn, or the field be consumed thereby, he that kindled the fire shall surely make restitution." (Ibid. xxii. 5.)

Every animal, quadruped, winged or creeping, tame or wild, is included in the term ox. If the damage was done in a manner usual for the attacking animal, the owner must make full restitution; but if the act was unusual for such animal its onwer's responsibility is to the extent of only one-half of the damage. The damage in either case must be done in the premises of the plaintiff. If the damage was done in public, or in private, or in common premises, if the act was a usual one for the animal, the owner is freed entirely; but if the act

was an unusual one, half of the damage must be paid.* Acts may become usual in certain animals, if the same act is repeated twice, when, on the third time, the owner must make full reparation.† Damages resulting from unusual acts are collected from the proceeds of the attacking animal itself; but nothing else of the defendant can be seized, if the amount due can be satisfied with such proceeds. A wild animal is not presumed to have committed an unusual act if it did the damage by biting, kicking, or stampede, notwithstanding that it had been tamed. But biting, kicking, goring, stampeding, or lying its weight upon objects and breaking them are presumed to be unusual acts in all domesticated animals. Such acts become usual only by being repeated. There are also secondary acts for which the owner is responsible. For example, a rooster, flying from place to place, if it breaks something with the force of its wings, it is a principal act, but if the breakage was the result of the disturbance in the air created by its flight the act is secondary, and the amount collectable is only one-half. There is, however, one kind of secondary acts for which the owner is condemned to pay only one-fourth of the damage. For example, flying gravel, resulting from a kick on the ground by an animal, if aught is damaged as a result thereof, the owner of the animal pays only one-fourth of the damage.‡ But if the flying gravel resulted from a usual act, as stepping upon it, the owner must pay half the damage.**

If any animal kills a person, the animal must be stoned,* and the onwer is condemned to pay damages to the heirs of the deceased. The husband does not collect such damages, but it goes to the wife's relatives through her father.†

If a man dig a pit in public, or in his own premises, which are open to the public, or to his neighbor, he is responsible for any damages resulting to animals from a fall therein. Every form of obstruction is included in the term pit. Moreover, every other obstruction, although an offshoot of this principal, renders one liable for damages

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* The animal committing an unusual act is designated under the term Tam.
† The third unusual act brings the animal in the class of Muod.
‡ In such instance if plaintiff seizes goods to the amount of one-half of the damage it cannot be revindicated.
§ This kind of damage is designated under the term Zerurot.
* See supra, Forbidden Food.
† See supra, Marriage.

suffered by either man or animals, whereas, in the case of a pit, a man, being presumed to take care of himself, if he falls in has but himself to blame. The same rule is applied to lifeless objects which are presumed to be under the care of men.

Any damage resulting from having built a fire near another's premises must be made good. If one hands a burning object to a minor, a mute, or an idiot, if the flame could not go out of itself before reaching another's premises, full restitution must be made. If he gave such burning object to a normal person, or to his watchman, he is free from any responsibility, the presumption being that a normal person will take care of another's property, and, therefore, the guilt rests upon the messenger. Any damage resulting from falling objects put on a high place which could be carried off by a usual wind must be made good. This is considered a secondary act, the principal being damages caused by fire.‡

(5) "Ye shall not steal." (Lev. xix. 11.)

(6) "If a man steal an ox, or a sheep, and kill it, or sel it, five oxen shall he restore for one ox, and four sheep for one sheep." (Exod. xxi. 37.)

(7) "Ye shall do no unrighteousness in judgment, in meteryard, in weight or measure." (Lev. xix. 35.)

(8) "Just balances, just weights, a just ephah, and a just hin, shall ye have." (Ibid. 36.)

(9) "Thou shalt not have in thy bag divers weights, a great and a small." (Deut. xxv. 13.)

(10) "Thou shalt not remove the landmark of thy neighbor, which they of old time have set." (Ibid. xix. 14.)

(11) Thou shalt not steal." (Exod. xx. 15.)

Theft, under whatever guise or form, if the amount envolved is worth the smallest coin in the realm, is forbidden, and double restitution must be made, save only theft of an ox or sheep, the restitution of which is five-fold, and four-fold respectively. Anything which a person takes possession of to which he has no legal right, the whole being done in the absence or ignorance of the rightful owner thereof,

‡ A principal act is the Ab and a secondary act is the Toldah.

is considered theft. In making restitution, adjustment according to the value of the property at the time the theft was committed must be made. It is forbidden to purchase aught from a thief. It is also forbidden to purchase anything from servants, or minors, unless it be something which is known to belong to them.

Measures and weights must be of one standard. Short weight or measure is theft pure and simple; but restitution is made only to the extent of the shortage. Any form of deceit practiced in trade, save the legitimate profit, is theft. The same law applies to both moveable and immoveable property.

To encrouch upon one's boundary line, if it be done without the knowledge of the onwer, is theft; if with his knowledge, but without his consent, it is robbery.

Abduction is a form of theft which is punished by death, if the abducted person was sold, after having been forced to work for the thief, even if the work performed while under restraint was of the slightest consideration.*

(12-13) "Thou shalt not withold anything from thy neighbor, nor rob him." (Lev. xix. 13.)

(14) "Neither shalt thou desire thy neighbor's house," etc. (Deut. v.)

(15) "Thou shalt not covet thy neighbor's house; Thou shalt not covet thy neighbor's wife," etc. (Exod. xx. 17.)

(16) "That he shall restore what he hath taken violently away, or the wages which he hath withheld, or that which was delivered to him to keep," etc. (Lev. v. 23.)

(17-18) "Thou shalt not see thy brother's ox or his lamb go astray, and withdraw thyself from them; thou shalt surely bring them back again unto thy brother." (Deut. xxii. 1.)

Taking possession of another's property by force is robbery.† Withholding another's property, although originally possession was

* Premeditation and intention is proved by the enforced labor and by the subsequent sale.

† G'zelah.

taken by the consent of the owner, is also a form of robbery. Wages of a workman comes iwthin the latter. It is forceful detention.†

Full restitution must be made by the robber, or the detainer. The article itself is recoverable, even if a whole building should have to be demolished to accomplish it. However, if the price of such article is offered instead no unnecessary damage should be caused.

Coveting is interpreted to include one who contrives and ultimately purchases or obtains possession of any object, even by peaceful means. Not to desire, means simply not to have in one's heart a longing for aught that belongs to his neighbor. Both are crimes, the lesser leading to commit the greater, with the possible result, when impossible to obtain the desired object by peaceful means, of its owner being murdered. Gambling is a crime, because it is akin to robbery, resulting from a desire to get possession of another's property without giving him value for it.

Retention of a lost article or strayed animal is another form of robbery, unless no identification marks be thereon, and the onwer thereof cannot be found after publication.

(19) "And if men strive together, and one smite the other with astone, or iwth the fist, and he die not, but keepeth his bed." (Exod. xxi. 18.)

If a man assault his fellow, there being no evidence of self-defense, he becomes liable in damages for reducing earning capacity, for the pain he causes, doctor's fee, loss of time, and injury to reputation. An "eye for an eye and tooth for tooth" is figurative speech; it being an emphasis of the extent of the damages the victim is to receive. If a literal interpretation should be given, the end of justice, which is founded upon the principal that the damages belong to the plaintiff, would be entirely defeated. The interpretation thereof being, that adjustment should be made commensurate to the degree of harm inflicted. A man's acts are never considered unusual, unless he be adjudged insane. The act must be purposeful, if not premeditated, in order to condemn a defendant to pay all the five forms of damages;

† See infra, Employer and Employee.

but if harm was done to another innocently, there is no damages for injury to reputation. The weapon with which injury was inflicted must also be exhibited. If it be anything which, by its nature, is incapable of inflicting injury, and yet injury was done, and the act was purposeful, defendant is condemned only the damages for injury to reputation. Every form of damages must be adjusted according to the position, earning capacity, trade, and reputation of the plaintiff. Man is responsible for every kind of damages caused by his acts.

(20) "Thou shalt not kill." (Ibid. xx. 13.)

(21) "Moreover ye shall take no redemption money for the person of a murderer, who is guilty of death." (Num. xxxv. 31.)

(22) "And the congregation (the court) shall restore him to the city of his refuge," etc. (Ibid. 25.)

(23) "And ye shall take no redemption money for him that hath fled to the city of his refuge." (Ibid. 32.)

(24) "That the manslayer die not until he have stood before the congregation for trial." (Ibid. 12.)

(25-26) "Then shalt thou cut off her hand; thy eye shall not have pity." (Deut. xxv. 12.)

(27) "Thou shalt not stand idly by the blood of thy neighbor" (Lev. xix. 16.)

(28) "Then shalt thou set apart three cities for thyself," etc. (Deut. xix. 2.)

(29) "And they shall break there the neck of the heifer in the valley." (Ibid. xxi. 4.)

(30) "Which (shall) neither (be) tilled nor sown." (Ibid.)

(31-32) "When thou buildest a new house, thou shalt make a battlement for thy roof; that thou bring not blood upon thy house." (Ibid. xxii. 8.)

(33) "Nor put a stumbling-block before the blind." (Lev. xix. 14.)

(34) "Thou shalt surely unload with him." (Exod. xxiii. 5.)*

(35) "Thou shalt surely help him to lift them up again." (Deut. xxii. 4.)

Premeditated, or purposeful, homicide constitutes murder. The next kin of the murdered person was obliged to act as the executioner, unless it fell to the lot of a son to execute his father, when the executioner must be appointed by the court.† A life for a life must be taken. No redemption money, nor even the forgiveness of the murdered person's family will free the accused. Life belongs to God, its Creator. No mob law is permitted. The accused must be tried, even if the act was public, and the judges themselves were witnesses to it.

In preventing murder or violence, every citizen has a right to employ even forceful means. In exercising such duty care should be taken not to kill the would-be murderer; but if crime can not otherwise be prevented even homicide is permitted. Similar extreme measures might be employed in preventing attempts upon the honor of a betrothed woman.* In preventing such crimes, every citizen must perform his duty. He must take no pity upon the would-be murderer, for he must not witness cold-blooded murder or infamy.

There are three degrees of excusable homicide: (a) Unintentional; (b) fortuitous; (c) negligent. The cities of refuge were provided for all such persons who caused the death of a fellow unintentionally. If, under such circumstances the next of kin took life for life, if it be without the limit of a city of refuge, no guilt shall rest upon him.† Fortuitous homicide is death caused by what might be designated as *force majeure,* and no exile is pronounced upon the accused, and the next of kin's life must be taken if he took life for life. The punishment of exile will not atone a homicide where the accused contributed negligence, although he does not forfeit his life. Therefore, he remains at the mercy of the next of kin.

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* See Supra, Cruelty to Animals.

† The law of the XII tables recognized homicide as a public crime only when directed against the State. Private delicts were settled by relatives. See Criminal recht der Römer, 36.

* Doubtless this must be the source of what is generally designated as the Unwritten Law relating to the protection of home and family.

† Here are traces of the principle of Talio, but not as practiced by the early Romans.

The widest publicity was given to an unsolved murder case. Five members of the Supreme Court (*Beth-din-ha-Gadal*) of Jerusalem went out to the place where the victim was found, and measured the distance of the surrounding cities to ascertain the nearest one to the city where the murder took place. Then the ceremony of the breaking of a heifer's neck takes place.

Every place or thing which might become dangerous to life or limb must be safeguarded or removed. Not only the roof, but every part of one's premises must be free from danger. Care must be exercised even in circulating coined money, lest some person, suffering of contagious disease, handled it.

It is within the right of every man to demand of his fellow his aid in loading and unloading his camel. Unloading must be done without remuneration; but one may charge for the time spent in aiding a fellow to put a load on. In giving, or demanding the right-of-way, preference must be given to the heavier load, or the one with a longer distance ahead. When everything is even, adjustment is made by the parties on a basis of indemnity to the one who yields.

CHAPTER II.

מכירה, זכיה ומתנה, שכנים, עבדים

THE LAWS OF SALE, GIFT, ACQUISITION, PREHENSION, BOUNDARIES, PARTNERSHIP, AGENTS, SERVANTS AND SLAVES ARE BASED UPON SIX MANDATORY AND TWELVE PROHIBITIVE COMMANDMENTS

(1) "And if thou sell aught unto thy neighbor, or buy aught of thy neighbor's hand." (Lev. xxx. 14.)

(2) "Ye shall not overreach (vex, oppress, deceive) one the other." (Ibid.)

(3) "Ye shall not overreach (with words) one the other." (Ibid. 17.)

(4-5) "And a stranger thou shalt not overreach, and shalt not oppress (extort from) him." (Exod. xxii. 20.)

Property, by its nature, whether corporeal or incorporeal, is either moveable or immoveable. In order to change ownership in property some transaction is necessary. Such transaction is called—sale. A sale can not be negotiated by mere words between the vendor and the purchaser, even though spoken in the presence of witnesses. After the conditions of the sale are agreed upon, they must be carried out so that the privileges as well as the responsibilities of ownership might be determined. This is simplified when the property is moveable, and easily handed to the purchaser. But when such moveables can not be handed over bodily, or when the property is immovable, the difficulty to convey the rights of the vendor to the purchaser must be overcome by determining ownership as soon as a sale is concluded, although not actually in possession of the latter.

Immovables are sold, and right of ownership thereto is established by three forms of sale: (a) complete payment of purchase price; (b) written instrument transferring the right of the vendor to the purchaser; (c) possession.

(a) When the sale is a cash transaction, a deed of sale must in any case be written. No transfer of property can be made without a consideration. The minimum making a sale binding is a *Prutah*.

(b) The written instrument must set forth the conditions upon which the sale is made, emphasizing the fact that the price was either paid, or otherwise satisfactorily settled.

(c) Possession is consummated if the purchaser makes some improvement, as a fence around a field, or a lock on a door, in the presence of the vendor.

The sale of a heathen slave is negotiated in a manner similar to the sale of immovables. Possession is complete when, in the presence of the old master, he renders some service to his new one. A slave can also be acquired by prehension, if it be done in the presence of the vendor.

A sale of animals is complete when the purchaser accepts the "leader"* of the herd or of the flock, or when, in the presence of the vendor, he either drives the animal a little way, or leads it along. But in such manner of sale the premises must not be public, but common property of both, the vendor and the purchaser. Ownership in animals is also acquired by means of lifting the animal up bodily.

Movable property is acquired by either lifting it, or dragging it along a little ways, if it can not be lifted. A boat is acquired by delivery, if towing it is dificult.

Ordinarily, as soon as the price is paid the sale is complete where movables are concerned, but to prevent possible carelessness on the part of the vendor it was ordered that no sale is complete and the movables continue to be the risk of the vendor till the purchaser will have consummated the deal by some form of possession, when ownership is determined.

A sale conveying immovables may include every kind of movable property, without any further formality, unless the movables are located elsewhere than on the immovable described in the deal, when the sale of the movables must be made dependent upon the immovables.†

Barter does not necessitate the presence of both articles which form the basis of the transaction, but as soon as one party takes possession of one article the other party becomes the virtual owner of the other. Barter may also be accomplished if the purchaser gives something of value to the vendor.‡

In settling a debt with movables, the creditor must acquire ownership in the usual manner employed in sales.

A sale in duress, if there are witnesses to that effect, and they testify that the vendor told them so before the sale was made, is voidable.

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* Every herd or flock has one animal as leader, after whom all others follow.
† Kinyou Agab.
‡ Helipin is binding even if one article is worth but a single prutah and the other any amount.

All conditions of a sale must be fulfilled, whether they be made by the vendor or by the purchaser; but the conditions follow only when the main object of the sale, which is transfer of ownership, was carried out.

One sixth more than the value of the article sold constitutes fraud and must be returned, if the demand is made by the purchaser within a reasonable time, so that he could have established the actual value thereof. One may make a profit. He may also demand for his goods more than its real value.* But he must state the fact to the prospective purchaser.

Food trusts are forbidden throughout Palestine. Neither are two different people permitted to make profits on eggs. Storing away of articles of food in order to raise the prices thereon is not permitted. Staple necessities of life can not be made articles of merchandise throughout Palestine. Foodstuffs have to be delivered direct from the producer to the consumer. Co-operative markets among citizens are permitted. Unionism to regulate hours of labour and prevent others from infringing upon such regulations is permitted.†

Any infringement upon such right, whether for profit or not, came under the law of fraud.

Misrepresentation, fraud, deceit or advantage upon others include also strangers, who must be protected by the laws of the country. In fact then, the violation is thrice forbidden.‡

Any article which is sold by measure, weight or number, if it be found short, the difference is collected from the vendor, and such debt is never prescribed.

There can be no overcharge in a land transaction. Land is worth any amount one pays for it.§

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* This does not include foodstuff.
† This applies to hours and maximum and minimum wages.
‡ Deceit in itself, deceit practiced upon a fellow, and deceit upon a stranger.
§ The same principle is applied to lessor and lessee.

If the deceit was in the article itself, it is ground for annulling the sale.

It is forbidden to sell any kind of property which is the subject of litigation, or upon which there is an existing mortgage, unless the purchaser knows the fact and is satisfied. Failing to let the purchaser know of such fact is ground for annullment.

No sale is binding unless the article which forms the basis of the sale is existing; but one may sell or rent a property and restrict enjoyment thereof to accessions only, notwithstanding that such accessions are to come in a future date.

Minors, idiots and deaf-mutes can not dispose of property; but they may earn and collect, sell or buy, all that is necessary to sustain their life.

Ownerless property is acquired by means of possession only. The same rule applies to the accession of such property.

Gifts or donations must be acquired by the same means as a purchase. As soon as the transfer is made, the donee assumes all obligations attached in connection with the ownership of such property.

All deeds of donation must be public; it cannot be executed privately.

A man cannot make a will to disinherit his lawful heirs, but he can donate all his property to any one he wishes by a deed of donation.* When the doner is sick, and such sickness terminates in his death, the donee is entitled to such property, even if the donation was made verbal, before two witnesses.

Undivided interests in immovables between two or more parties, if after division there will still remain enough in proportion for each of the parties, and the divided parts will retain their previous designation, one may force the other to divide it. Whether an immovable is divisible or not depends upon its nature, when it is determined according to its

* See infra, Inheritance.

size. For example, two or more people own a yard in community, if a minimum of four square ells would be left to either of the parties, so that the share of each would still be designated as yard, the law of division is applied and enforced. The same rule, but in different proportions, is applied to fields, gardens, and vineyards.† By mutual consent parties may divide among themselves even such property which is legally indivisible.

When an estate is divided among several heirs, boundary lines must be established, and one can not encroach upon the line of the other. Fences and ditches and separation walls must be built in common, each party contributing a prooprtional share of the cost.

Any nuisance can be objected to by a neighbor, and one having a business, or trade, which constitutes a nuisance, can be forced to remove it to a safe distance from his neighbors.

The appointment of an agent can be made verbally, unless he is to reclaim property for his principal, when he is obliged to produce a written power of attorney.

Partnership can be established upon something which constitutes capital at the time such partnership is agreed upon. No partnership can be based upon non-existing values, or things. For example, no agreement to divide future earnings is binding, as one can not convey to the other a non-existing thing. Partnership binds both parties equally, and restricts their respective activities to the conditions of the partnership. An unconditional partnership binds each of the parties not to carry on the business in a foreign city, or country, not to admit a new member to the partnership, not to deal in any other line of goods save the one started out with at the time of the formation of partnership, not to give credit, unless it be a line of goods which is customary to sell on credit.

(6) "If thou buy a Hebrew servant, six years shall he serve," etc. (Ibid. xxi. 2.)

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† There must be enough place for each to sow a minimum amount of seed.

(7) "They (Hebrew servants) shall not be sold as bondmen are sold." (Lev. xxiii. 42.)

(8) "Thou shalt not rule over him (Hebrew servant) with rigor." (Ibid. 43.)

(9) "He (the idolater) shall not rule over him (Hebrew servant) with rigor before thy eyes." (Ibid. 53.)

(10) "Thou shalt not compel him (Hebrew servant) to work as a bond-servant." (Ibid. 39.)

(11) "Thou shalt not let him (Hebrew servant) go away empty." (Deut. xv. 13.)

(12) "Thou shalt furnish him (Hebre wservant) liberally out of thy flocks, etc. (Ibid. 14.)

(13) "If she please not her master, to whom he hath assigned her, then shall he aid her to be redeemed." (Exod. xxi. 8.)

(14) "And if he should assign her unto his son," etc. (Ibid. 9.)

(15) "Unto a strange nation he shall have no power to sell her, seeing he dealt faithlessly with her." (Ibid. 8.)

(16) "You may hold them (heathen slaves) to service forever." Lev. xxv. 46.)

(17) "Thou shalt not deliver unto his master the servant who may escape unto thee from his master." (Deut. xxiii. 16.)

(18) "With thee shall he (the escaped slave) dwell . . . thou shalt not overreach him." (Ibid. 17.)

The purchase of a Hebrew servant is possible under two conditions only: (a) when a thief, who was found guilty, but who has no means whatever to make restitution of the actual value of the stolen article,* is sold by authority of justice; (b) when one becomes so poor that he actually has starvation facing him, he may sel lhimself as a slave. In neither case can the sale be public, upon a block, as was the custom in selling heathen slaves. Prisoners are not slaves,

* No sale of that kind was possible if he had no means to pay fines, such as double money, or five or fourfold in case of stolen animals.

and cannot be compelled to work as hard as slaves, unless they be rebellious. The slave must do his duty, but his owner must treat him as his equal in manner of board, clothes and dwelling. A slave sold by authority of justice can not be sold for a longer term than six years. A Sabbatical year does not release him, but the Jubilee year prescribes the term of a slave, even though it be one year after he was sold. When one sells himself in slavery, he has the right to prolong the period to as many years as he deems fit, but the Jubilee year will release him under any circumstances. But the Sabbatical year will not affect such sale.

A father, who has nothing left upon which to subsist, has a right to sell his little daughter in slavery before her age of puberty. Her release comes about by six different means (a) at the expiration of six years; (b) at the approach of a Jubilee year; (c) by deducting the amount due in return for her service from the amount paid for her; (d) by a written discharge; (e) at the demise of her master; (f) by indications of puberty. A female slave can be sold only to such master who can, with her consent, when she reaches the age of puberty, take her as wife himself, or give her in marriage to his son. She can not be sold to any of the near relatives between whom marriage is forbidden.

The slave who is sold by authority of justice must not remain in the service of his master longer than six years. If he refuses to part from his master, his ear is bored with an awl,† and his release comes either at the death of his master, or at the approach of the Jubilee year. This law does not apply to one who sells himself into slavery.

The sale of a heathen slave is public, upon a block, and he is transferred from one owner to another by sale, barter, prehension, possession, or written instrument. He is freed by redemption, written discharge, or by having lost any of the tewnty-four major members of his body as a result of an assault by his master.

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† The boring must be done by the master himself.

The heathen slave was the property of the master, but he had no right to accord him ill-treatments . Kindness must be the rule of the offspring of Abraham. The master was obliged to give his slave to eat the same food he ate himself. Moreover, he was obliged to teach him the ways of God and endeavor to make a free man out of him.*

It was the duty of every Hebrew to redeem a Hebrew who had sold himself in slavery to a heathen. In every instance the laws of Judaism, even during the primative days, when all nations were entirely ignorant as to the meaning of law and order, were already established on a basis of humanity and justice.

CHAPTER III.

שומרין, פועלים, מלוה ולוה, נחלות, טוען ונטען

THE LAWS PERTAINING TO EMPLOYER AND EMPLOYEE, LOANS, TRUSTEES, DEBTOR AND CREDITOR, WILLS AND INHERITANCE, AND THE RULES OF PROCEDURE IN CONNECTION THEREWITH ARE BASED UPON ELEVEN MANDATORY AND ELEVEN PROHIBITIVE COMMANDMENTS

(1) "If a man deliver unto his neighbor an ass, or an ox, or a lamb, or any beast to keep," etc. (Exod. xxii. 9.)

(2-3) "On the same day shalt thou give him his wages, that the sun may not go down upon it" (not to delay it). Deut. xxiv. 15.)

(4-5-6) "When thou comest into thy neighbor's vineyard, thou mayest eat grapes at thy own pleasure, till thou have enough; but into thy vessel shalt thou not put any . . .

* Judah P. Benjamin was legally right in supporting the right of property in a slave, but he was wrong as to the duty of a master to his slave. The spirit of the law of slavery in Jewish jurisprudence was to take in the semi-savages of among civilized society, teach them to know that life belongs to God, that the ultimate aim in life is to serve Him who is the only Master. But to maintain the right of property in a slave even after he knows to whom his life's service belongs is certainly contrary to every tradition of Jewish jurisprudence. See Congressional Record of the United States of America, March 11, 1858.

but a sickle shalt thou not move over thy neighbor's standing corn." (Ibid. xxiii. 25-26.)

To determine the responsibility of a trustee, it is necessary to ascertain the primary condition under which he assumed charge of the property at issue. To that end trusteeship is divided into four distinct classes: (a) unpaid trustee or keeper; (b) a borrower; (c) paid trustee; (d) lessee or hirer. The unpaid trustee, or keeper, if there was no contributary negligence, upon his solemn testimony thereto, is freed from any responsibility, if the property left in his care is lost, stolen, or destroyed by accident. The borrower is responsible for all manner of loss. The paid trustee, or lessee, or hirer, is responsible if the article was lost, or stolen, but not if it was destroyed by accident. The borrower, however, upon establishing the fact that the article in his care was destroyed in the course of utilizing it for the purpose it was intended, as, for example, a beast which died in the ordinary course of a day's work, is released from any responsibility. But all these laws are restricted to moveable effects, which have a value by their nature; but it does not include immoveables, or written instruments, which bear a face value only. If there was contributary negligence, the paid trustee, lessee or borrower must make good the loss of any kind of property. In all instances every trustee, lessee, borrower, or hirer is restricted to the conditions of the contract between him and his principal.

An employer who engages labor can not make his own prices or conditions. All regulations regarding labor, in any given locality, must be complied with. If a laborer is engaged without a stipulated wage, adjustment is made on the basis of a compromise between the maximum and minimum prices for such class of labor.* A laborer may quit work even in the middle of the day, and his employer must pay him for the time he worked. The workman is permitted to eat of the fruit which he was hired to pick or gather. If such fruit is already separated from the tree or the ground, he may eat of it while

* See supra, Employer and Employee.

working. But if it be on the vine or the stalk, he can eat thereof only after working hours.

A lender who takes pledges to secure loans is considered a paid trustee, and is judged as such in case of loss of the article so pledged. Mechanics, who take in articles to repair, or goods to manufacture, are also considered paid trustees.

The wages of workingmen must be paid daily, before sunset. It must not be delayed. In case of dispute between employer and employee, the former denying that he owes the latter any wages, the workingman's oath is taken in preference to that of the employer, unless he can not establish that he was engaged to work. The same laws are applied to resident foreigners.

(7) "And if a man borrow aught of his neighbor, and it be hurt or die." (Exod. xxii. 13.)

(8) "If a man do deliver unto his neighbor money or vessels to keep, and it be stolen," etc. (Ibid. 6.)

A borroewd animal must be fed. An unpaid trustee can not offer the price of the article without taking an oath that it is not in his possession, nor under his control unless such article is easily procured, and its value well known.‡

(9-10) "If thou lend money to my people, to the poor by thee (shalt thou lend); thou shalt not be to him as a lender of money." (Ibid. xxii. 24.)

(11) "Of a foreigner thou mayest exact payment." (Deut. xv. 3.)

(12) "Thou shalt not go into his house to take his pledge." (Ibid. xxiv. 10.)

(13-14) "And if he be a poor man, thou shalt not lie down with his pledge. Thou shalt punctually deliver him the pledge again when the sun goeth down." (Ibid. 12-13.)

(15) "And thou shalt not take in pledge the raiment of a widow." (Ibid. 17.)

‡ See Supra regarding respective responsibilities.

(16) "No man shall take to pledge the nether or the upper millstone." (Ibid. 6.)

(17) "Thy money shalt thou not give him upon usury, nor lend him thy victuals for increase." (Lev. xxv. 37.)

(18) Thou shalt not take (give) interest from (to) thy brother, interest of money, interest of victuals, interest of anything that is lent upon interest." (Deut. xxiii. 20.)

(20) "From an alien thou mayest (must) take interest." (Deut. xxiii. 21.)

The Jewish debtor was never considered the legal slave of the creditor, if he could not pay him.* In collecting a debt, the movables must be discussed and disposed of first. If there be not enough realized to satisfy the debt, the immovables are sold. Imprisonment for debt is also unknown in Jewish jurisprudence.* The furthest it went was to have the debtor declare under oath that he is not able to pay the debt, and to publish a notice calling upon any one who has information as to the assets of the debtor shall appear and testify to that effect. The creditor of a widow could never have in his possession a pledge belonging to her. If he does take the pledge of a widow, it is taken away from him by force; if it be lost or burned, he is flogged.

(19) "Thou shalt not lay upon him usury." (Exod. xxii. 24.)

It is forbidden to receive, give, or deal in usury. The money paid out in usury, even with the consent of the borrower, is taken back from the lender. A robber and a usurer are alike, both must make restitution. If either come forward voluntary and beg to receive the amount robbed, or taken in usuary, it is unwise to accept it and open the gates of repentence so easily. No one can collect usury upon a note. One who writes a usurious instrument admits his own disbelief in God.

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† See Supra, Servants and Slavery.

* F. P. Walton, in his "Introduction to Roman Law," is wrong in asserting that "the servitude of debtors was admitted by the Jewish Law," p. 203. II Kings, IV.I Isaiah l. 1, and Nehemiah v. 8, which he quotes in a foot-note to support his assertion refer to heathen creditors, as is plainly indicated in the text.

† It was mandatory to aid a Jewish debtor who was seized by a heathen creditor, which is the highest form of Pidyon Shebuyim.

It is forbidden to lend money without interest to heathens, who themselves charge usury, and who do not look upon usury as something unworthy among a civilized people. The principle being the same as, for example, the custom laws of the modern nations. The tariff of every nation being regulated by either preferential or retaliatory measures. It is permitted to borrow money from a heathen and pay him usury; but it is forbidden to hand over money to a heathen so that he may lend it to a Jew. Historically, it is a fact that in paying back a debt to a Jew discrimination was invariably made even during comparatively recent times.‡ Maimonides certainly entered not only in the letter, but in the spirit of this law in numbering usury-taking of aliens as a mandatory commandment, which was the foundation of the principles of international tariff.

An unsecured loan is collectible from all manner of property the debtor might possess. But a loan secured by immovables, as hypothecs, can be collected only from the property which forms the basis of the security. Mortgage creditors collect their debts on the principle of priority. But such mortgages can be placed on immovables only. Movables may be seized by any creditor.

(21) "This is it, before the judges shall come the cause of both parties." (Exod. xxii. 8.)

This commandment is the basis of the laws of procedure. By the laws of the Torah there are three kinds of defendants whose oath is taken and judgment rendered in their favor: (a) one who partially admits the claim of the plaintiff; (b) a trustee; (c) one against whom there was the testimony of a single witness. Added to these is one who makes a complete denial. In all other cases, such as workingmen, injured persons, or persons suffering a loss resulting from destruction of written instruments, the plaintiffs are believed on their oath, and judgment is rendered in their favor. But these rules are followed only when the subject at issue is concerning movable effects. It also follows that if any of these refuse to take oath, judgment is rendered in favor of the opposition.

‡ See Magna Charta, paragraphs 10-11.

If two witnesses testify against one that he had committed any act which affects his moral, or religious conduct, for example, that he is a usurer, gambler, or robber, he loses his right of being believed on oath, and judgment is rendered in favor of the opposition. If both parties to an action are not to be believed, judgment is rendered in favor of the plaintiff. Admission in part must be on the subject at issue, and the claim must be made definite as to measure, number, weight or amount. In all matters the testimony of two witnesses forms the basis of a decision, all other rules notwithstanding.

It is always to be presumed that movables are the property of the one who is in possession thereof. To establish ownership by one not in possession requires two witnesses who know that the one in possession is not the actual owner thereof. In the absence of such testimony the defendant has the right to take oath and thereby establish his title thereto. But this law does not apply to mechanics or manufacturers who take in goods to repair or make up new effects, the presumption always being in favor of plaintiff. An unbranded animal at large, if its erstwhile owner is known, the presumption is not that it is the property of the one who is in possession. But the contrary is the rule with an animal belonging to a flock or herd under the care of a shepherd.

Ownership in property does not follow possession. However, three years' peaceful possession and enjoyment of accession will establish a presumption in favor of the defendant, and if plaintiff cannot establish his ownership by two witnesses, defendant's oath is believed. A written protest during the three years, or in times of war, when communication is impossible, even if there be no protest, the presumption is in favor of the plaintiff. Workingmen, lessees, partners, administrators, tutors, a husband on his wife's estate, or a wife on her husband's estate are not presumed to be the owners of an immovable, although they enjoyed peaceful possession and accessions thereof for three consecutive years.

(22) "If a man die, and have no son, then shall ye cause his inheritance to pass unto his daughter." (Num. xxvii. 8.)

This commandment forms the basis of the laws of inheritance. Kinship for the purpose of inheritance is established through the father only.* The preferred heir is from the male line of both, descendants and ascendants. A dead son's daughter will inherit the whole estate in preference to a living daughter. If one has no descendants, his estate is inherited by the first male ascendant, who is the father of the deceased. If the father of the deceased, too, be dead, the estate goes to deceased's brothers or their male descendants. If there be no brothers, it goes to deceased's sisters or their male descendants. If there be none, it goes to his ascendants of the second degree in the male line, who is his grandfather. If his grandfather, too, be dead, it goes to his father's brothers or their male descendants. If there be none, the inheritance reverts back to the nearest male ascendant, or his male line. A wife does not inherit her husband,† but a husband is the sole heir of his wife. An illegitimate son or brother‡ of any woman with whom marriage is forbidden, takes an equal share with the legitimate heirs.

The first-born son, born during the lifetime of the father, inherits two shares of his father's estate, which was his inter-vivos. For example, a man dies and leaves five sons, the first-born takes one-third of the whole estate, and each brother takes one-sixth; if he left nine sons, the first-born takes one-fifth, and each of the eight one-tenth.

The first-born within the meaning of this law is the first son to his father. A first-born son does not take two shares of his mother's estate, but the division is made equally among the brothers or their heirs. Any increase in a father's estate after death is divided equally between all lawful heirs, and the first-born does not get two shares therein.

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* No plainer evidence against the theory of Totemism among the early Hebrews is needed. See Supra, Forbidden Food.

† See Supra, Marriage.

‡ But not a son of a heathen female servant or of a heathen free woman.

A doubtful heir cannot deprive the positive heir of even the smallest fraction of an estate. If two doubtful heirs lay claim to an otherwise vacant estate, it is evenly divided between them. A man cannot appoint an heir not within the direct line of inheritance, nor can he deprive the lawful heir of his right to get his share in the estate. But a man may deed his estate during his lifetime by donating it to any one whom he might choose. A convert is a lawful heir. A proselyte from among the heathens, if his father be a resident of the Jewish State, may inherit his father, but none other of his heathen relatives. It is considered unwise, although not unlawful, for any father to disinherit a child, or give a favorite son more than the others. The heathen father does not inherit his proselytized son, because he is not at all subject to either the rigor or benefit of the Jewish laws. Before heirs are permitted to make the division of an estate, they must produce positive proof that the testator, or intestate, as the case might be, is dead. Mere news, or the innocent statement of a heathen, although sufficient evidence to permit a woman to remarry, is not the best evidence to divide an estate, and no estate can be divided on secondary evidence. On the other hand, an estate may be divided on circumstantial evidence, although insufficient in itself to release the bonds of matrimony. Administrators, tutors, or trustees of interdicted persons, or of absentees, must be of full age. Tutors for minors must not be relatives who share the inheritance with them. If after dividing an estate, the testator's creditor seized the share of one heir, a redivision must take place, even if the share so seized consisted of only movable effects. A tutor appointed by law, at the maturity of the minors, turns over the estate without having to account for every item of expenditure or income, but he must take oath that he turns over all that belongs to the estate. A tutor or executor appointed by the testator in his will is not required to take such oath. But in either case it is advisable for an executor or tutor to have an account kept of expenditure and income.

CHAPTER IV.

סנהדרין

THE LAWS REGULATING AND DEFINING THE POWERS VESTED IN THE SANHEDRIN AND THE JUDICIARY ARE BASED UPON TEN MANDATORY AND TWENTY PROHIBITIVE COMMANDMENTS

(1) "Judges and officers shalt thou appoint unto thyself in all thy gates," etc. (Deut. xvi. 18.)

(2) "Ye shall not respect persons in judgment." (Ibid. i. 17.)

The legislative and judiciary branches of the government of Judaea are organized on the following plan: The Great Sanhedrin, which has both judicial and legislative powers, consist of seventy-one members, selected from among the most learned priests, Levites and Israelites. A member of the Sanhedrin is obliged to know the current sciences, arts, languages and the different systems of idolatry and superstition practiced by the surrounding nations, so that in trying an accused, or in passing judgment upon a subject he may know all phases thereof. An extremely old man, or one who had no children, is not elected to the Sanhedrin, on the ground that such man has less mercy than one who is a father of a family, and not very long since he had to raise it. The most learned of among the members is elected President—*Nashi;* and the next in wisdom to the Nashi is elected Vice-President—*Ab-Beth-Din.* The Assembly Hall of the Sanhedrin is in the Temple (Lishkat Hagozit). Twenty-three members constitute a quorum. Every member of the Sanhedrin must be ordained by at least three ordained members. After being examined, it is sufficient that three Masters confer upon him the degree of Rabbi. It thus follows that in conferring degrees in such manner, every member of the Sanhedrin can trace his authority to Moses, who ordained Joshua, by whom the Elders were ordained, who, in turn, ordained the Prophets, by whom the Men of the Great Assembly were ordained, three of whom had to ordain each member of the Sanhedrin. The Sanhedrin have the

power to make wars of conquest; to elect a king; to appoint the smaller Sanhedrin in every city among every tribe; to judge a High-Priest; or a whole tribe; to investigate an unsolved murder; to order the destruction of a misled city; to punish a false prophet; or a suspected woman; to establish the limits of the city, and the number of courts—Lishkot—within the Temple. In addition to the Sanhedrin of seventy-one, there are two smaller bodies—*Sanhedrey-Ketanah,* each consisting of twenty-three members; one sitting in the *Azarah,* and the other at the entrance of the Mount-Moriah. All tribunals in the provincial cities consist of twenty-three members, unless the population of the place has less than one hundred and twenty adult men, or it has no two learned men within its limits, when a *Beth-Din* of three members is appointed. The order of promotion to the different tribunals is as follows: delegates are sent throughout Judaea to find the most learned men. These are given places among the Sanhedrin of the provincial cities. The most learned of among the Sanhedrey Ketanah of the provincial cities are promoted to the Sanhedrey Ketanah which sits at the entrance of Mount Moriah. From among the latter selections are made to fill vacancies in the Sanhedrey Ketanah which sits at the Azarah, and from that body members are selected to fill vacancies in the Great Sanhedrin. A king is never a member of the Sanhedrin. But the kings of the House of David preside at the sessions of the Sanhedrin, and render judgments. Kings of the House of David are judged by the Sanhedrin. Every member of the Sanhedrin must be free from any bodily deformities, or diseases. It is forbidden to appoint any judge who is not fit for the office. In smaller communities where there is no Sanhedrey Ketanah, and the judiciary is represented by three judges, such judges must be ordained.

(3-4-5) "Thou shalt not follow a majority (multitude) to do evil; neither shalt thou speak in a cause, to incline after many, to wrest judgment." (Exod. xxiii. 2.)

According to the interpretation given to this passage, it contains three distinct commandments; (a) to follow and carry out the decision of a majority; (b) not to change an opinion merely because a majority believes otherwise; (c) not to follow the opinion of a majority to con-

demn the accused without being convinced of his guilt. In all civil and religious matters one more on either side is considered a majority. In capital cases, which are always tried by a Sanhedrin of twenty-three, a majority of two is required. A judgment in civil matters might be rendered on the day of the trial; but in capital cases the decision must not be rendered till the day after. It is, therefore, forbidden to begin a capital case on a Friday, or on the eve of a holiday, as no sentence can be pronounced on either a Sabbath or a holiday. If the Great Sanhedrin hands down a unanimous decision of guilty, the accused is freed. Some one must act on his behalf, and defend him. Justice must never resemble a conspiracy.

(6-7-8-9) "He that smiteth a man so that he die, shall surely be put to death." (Exod. xxi. 12.) "It (the death) shall surely be avenged." (Ibid. —. 20.) "In fire shall they burn him and them." (Lev. xx. 14.) "And ye shall stone them with stones that they die." (Deut. xxii. 24.)

There are four different forms of capital punishment in Jewish jurisprudence: (a) stoning; (b) burning; (c) beheading; (d) strangulation. No capital punishment is carried out unless it has the sanction of a majority of the Great Sanhedrin, assembled in its Court in the Temple at Jerusalem. Eighteen different crimes are punished with stoning; ten with burning; two with beheading; and six with strangulation.

(10-11-12) "And if a man have committed a sin for which there is a punishment of death, and he be put to death, thou shalt hang him on a tree. Then shall his body not remain all night on the tree; thou shalt surely bury him on that day." (Ibid. xxi. 22-23.)

Hanging the corpse of a stoned criminal as an example, is done only when such criminal had committed either blasphemy or idolatry. It must never be done to the remains of a stoned woman.

(13) "Thou shalt not suffer a witch to live." (Exod. xxii. 17.)

The dark deeds of the witch are apt to mislead many and bring about idolatry and superstition. The purity of Jewish civilization must be

maintained. But a witch is not stoned without the sanction of a majority of the Great Sanhedrin assembled in its chambers at the Temple, after due warning.

(14-15) "Forty stripes may be given him; no more, so that he shall not exceed to have him beaten above these with too many stripes," etc. (Deut. xxv. 3.)

Flogging is a common punishment in Jewish jurisprudence. Forty stripes is the maximum, but it is never carried that far. The judges give the orders to carry out the sentence according to the physical strength of the guilty person. Thirty-nine lashes is the established maximum, lest the fortieth, which is the utmost a strong person can stand, will prove fatal. They that are punished with flogging, as in all other criminal cases, must first be warned not to commit the offence. The sins and crimes which are punished by flogging are divided in three branches: (a) sins which carry along the moral punishment of *Koret,* but which also carry along the punishment of flogging, are twenty-one; (b) sins which carry along the punishment of moral death—*Mitah-Bidey Shomayim,* but which are of an active nature, and, therefore, punished by flogging, are eighteen; (c) sins which carry along the punishment of flogging only, are one hundred and sixty-eight. Among the latter is included the flogging of a King who is found guilty of either having too many wives, too many horses, or too much gold and silver.

(16-17-18-19-20-21-22-23-24-25-26-27) "And him who hath been declared innocent and righteous thou shalt not slay." (Exod. xxiii. 7.) "But unto the damsel shalt thou not do anything," etc. (Deut. xxii. 26.) "Thout shalt not look with pity on him." (Ibid. xix. 13.) "Neither shalt thou countenance a poor man in his cause." (Exod. xxiii. 3.) "Nor honor the person of the great." (Lev. xix. 15.) "Thou shalt not wrest the judgment of thy poor in his cause." (Exod. xxiii. 6.) "Ye shall do no unrighteousness in judgment." (Lev. xix. 15.) "Thou shalt not pervert the cause of the stranger, or of the fatherless." (Deut.

xxiv. 17.) "In righteousness shalt thou judge thy neighbor." (Lev. xix. 15.) "Ye shall not be afraid of any man; for the judgment belongeth to God." (Deut. i. 17.) "And thou shalt take no bribe," etc. (Exod. xxiii. 8.) "Thou shalt not receive a false report." (Ibid. 1.)

The text of the Torah is clear regarding the duties of judges. No accused must be condemned on mere presumption. The benefit of the doubt always goes to the accused. His guilt must be established by clear evidence. No one can be adjudged guilty who was forced to share in a crime, as an assaulted woman. It is always commendable to arbitrate between parties who come with a civil matter before the court. No favoritism, or prejudice, must be shown on account of position, wealth, poverty or defenselessness. The judge who accepts a bribe stands accursed. A judge can not preside over a trial where one of the parties is either his relative, even by marriage, or his personal friend. The judges among themselves must not be enemies, if they are to preside together to try cases. The entire police force is at the disposal of the judges to enforce their decisions. The judge's powers are great. But he must not act arrogantly toward his fellows. The conduct of a judge must be moderate, honorable, retired, and peaceful. Writs of contempt are issued against any one who refuses to appear upon a subpoena—*Star-Pitha.* Subpoenas in civil cases are not issued during the month of Nissan and Tishra, when everybody is busy with the holidays.

(28-29-30) "Thou shalt not curse the deaf." (Lev. xix. 14.) "The judges thou shalt not revile, and a ruler among thy people thou shalt not curse."

Libeling, or defaming any one is forbidden. The term "deaf" includes any one who is defamed or libeled by the evil words, written or oral, of a fellow. Libel is a more serious crime when directed against persons in authority.

CHAPTER V

עדות, ממרים ומלכים

THE LAWS OF EVIDENCE, OBEDIENCE TO, AND REBELLION AGAINST, CONSTITUTED AUTHORITY, OF KINGS AND WARS ARE BASED UPON SIXTEEN MANDATORY AND TWENTY-FOUR PROHIBITIVE COMMANDMENTS

(1-2-3-4-5-6-7-8) "And he is a witness, since he hath either seen or knoweth something; if he do not tell it, he shall thus bear his iniquity." (Lev. v. 1.) "Then shalt thou inquire, and make search, and ask dilligently, and behold if it be true, the thing is certain." (Deut. xiii. 15.) "But one witness shall not testify against any person to cause him to die." (Num. xxxv. 30.) "There shall not rise up one single witness against a man for any iniquity," etc. (Deut. xix. 15.) "Put not thy hand with the wicked to be an unrighteous witness." (Exod. xxiii. 1.) "Fathers shall not be put to death on account of (the testimony) the children; neither shall children be put to death on account of the fathers." (Deut. xxiv. 16.) "Thou shalt not bear false witness against thy neighbor." (Exod. xx. 16, Deut. v. 17.) "Then shall ye do unto him (the false witness) as he purposed to do unto his brother." (Ibid. xix. 19.)

A witness may be compelled to testify. The exceptions are; a great scholar is excused to appear as witness in civil matters before ordinary three judges, and the High-Priest gives testimony to matters pertaining to the king only. The examination and cross-examination of witnesses is mandatory. On the main points of fact in a case both witnesses must make positive statements. If one will state that he does not remember a vital point the case is dismissed. But in cross-examination, if even both witnesses fail to remember a certain thing, their main evidence stands. Any contradictory evidence between the two will free the accused, the fact

that such contradiction did not take place during the examination-in-chief notwithstanding. If there are three witnesses in a case, two of whom agree, but the third contradicts their testimony by positive statements, the entire evidence is thrown out. In civil matters, so long the witnesses agree on the main points at issue, as for example, the debt itself, contradictions in detail will not aid the defendant. Testimony must be given by the witnesses in person. However, their written deposition may be admitted in civil matters.

No evidence is accepted unless it be given in the presence of the parties concerned in the action. But a written deposition may be taken by the judge in the absence of the parties. Only witnesses who actually saw, and who appear together, are permitted to testify in capital cases. They must also have seen one another while the alleged murder or other capital crime was committed. Testimony of one witness is admitted concerning an unsolved murder, so as not to have to break the neck of a heifer, or concerning a suspected woman, to save her from taking the "bitter waters," or concerning the death of an absentee, to release his wife from the bonds of marriage and permit her to remarry. But in no other case. Witnesses to a written instrument must conform to all regulations concerning evidence. A relative can not be a witness to a document. Identification of signatures of written instruments must be established by a board of three witnesses, even they be ordinary people. Proceedings of identifications do not take place at night. There are five ways in which identification can be established; (a) when the judges know the signature; (b) by asking the witnesses to sign in presence of the court; (c) by having each witness identify his signature in court; (d) by having the testimony of witnesses that they know the signature; (e) by comparing the document in question with other documents whereon the signature of the same persons appear. A relative might be a witness to identify an instrument, if he has one other witness to corroborate him. One may testify from the memory of his childhood as to the signature of his father, tutor or brother. There are ten different persons whose testimony is not admitted: women, slaves, minors, idiots, deaf-mutes,

blind, wicked, shameless, relatives, and interested parties. Women are not accepted as witnesses because of the language of the Torah, which speaks in masculine terms.

If an alibi is proven against witnesses upon whose testimony a conviction is based, their punishment is made to fit the crime. They are given measure for measure in the most literal sense. As they have *intended* against their fellow, so must it be *done* to them. But, if their testimony is discovered to be false before sentence was pronounced, or after execution, or if only the testimony of one of them is false, the law has no remedy for redress. What was *done* can not be undone. But if the sentence was less than capital punishment, even after sentence was carried out, they are punished with the identical sentence pronounced because of their testimony.

(9-10-11-12-13-14-15-16-17) "In accordance with the instructions which they may instruct thee, and according to the decision which they may say unto thee, shalt thou do; thou shalt not depart from the sentence which they may tell thee, to the right, or to the left." (Deut. xvii. 11.) "Thou shalt not add thereto, and thou shalt not diminish therefrom." (Ibid. xiii. 1.) "For every one whatever curseth his father or his mother shall be put to death." (Lev. xx. 9, Exod. xxi. 17.) "And he that smiteth his father, or his mother, shall surely be put to death." (Ibid. xxi. 15.) "Honor thy father and thy mother." (Ibid. xx. 12, Deut. v. 16.) "Ye shall fear every man his father and his mother." (Lev. xix. 3.) "Ye shall not eat upon the blood." (Ibid. —. 26.)

All legislative powers are vested in the Great Sanhedrin of the Temple at Jerusalem; and upon it rests the entire structure of justice. It is mandatory to follow the decisions and carry out the judgments of the Sanhedrin. Its authority is supreme. Traditional laws can not become subjects of controversy. In every matter where a dispute arises, it is known not to belong to Jewish tradition. Written laws are followed

in the manner interpreted by the Sanhedrin or by a majority thereof. No law can be left in doubt when the Sanhedrin are in existence. All authority of the lesser judicial bodies is derived from the Sanhedrin, and, therefore, subject to the same obedience. A Beth-Din, which is composed of three members, may enact timely rules for the welfare of their community.

Infidels are considered such when they deny the authority of the laws as interpreted by the Sanhedrin, which is considered Oral Law in Judaism—*Torah-she-Baal-Peh.* But this includes only the leaders among infidels. The young, who found established sects of infidels, such as the Karaites, Seducees, or present-day Reformers, are not blameable, and it is mandatory to bring them back to Judaism. They are simply misled.

If an ordained member of the lesser judiciary bodies, or of the Sanhedrin itself, will defy the authority of the Sanhedrin, and interpret the law different than its decisions, although he does not deny the authority of the Torah-she-Baal-Peh, is pronounced a *Zakan-Mamra,* a rebellious elder, and is punished with death in accordance with the law prescribed in Deut. xvii. 12. But a Zakan-Mamra must be judged by the Sanhedrin itself, and is put to death only after he personally heard the law decided by the Sanhedrin, and then continued to be rebellious.

A proselyte is forbidden to curse or smite his heathen father or mother. One whose parents are most wicked, even if they be under sentence of death for unspeakable crimes, must not curse or smite them. An officer of the court is forbidden to carry out any sentence against his parents. *Kibud-Ab-vo-Ame* has no boundary-line. There is no limit to the honor due to parents. But the command of a parent to disregard any of the laws of God must not be obeyed for, both, father and son must observe the laws of God.

A rebellious son (Deut. xxi. 18-21), or the causes leading thereto, is forewarned in the Torah, when it says: "Ye shall not eat upon the blood." The interpretation of it is—not to bring about blood-shed by gluttony. It is applicable to boys only. It is not in the nature of girls to become great gluttons. If a sentence has to be carried out against a stubborn and re-

bellious son, the fact is made public by means of a proclamation to all Israel—a commendable measure to check gluttony.

(18-19-20-21-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39-40) "Then mayest thou indeed set a king over thee . . . thou mayest not set over thee a stranger who is not thy brother." (Ibid. xvii. 15.) "Only he shall not acquire for himself many horses. . . . Neither shall he take to himself many wives . . . nor shall he acquire for himself too much silver and gold." (Ibid. —. 16-17.) But of the cities of these people . . . shalt thou not let live a single soul. But thou shalt utterly devote them" (Ibid. xx. 16-17.) "Remember what Amalek did unto thee . . . thou shalt not forget." (Ibid. xxv. 17-19.) "Thou shalt blot out the remembrance of Amalek from under the heavens." (Ibid.) "Ye shall henceforth not return on that way (to Egypt) any more." (Ibid. xvii. 16.) "When thou comest nigh unto a city to make war against it, then summon it with words of peace." (Ibid. xx. 10.) "Thou shalt not seek their peace and their welfare (Amon and Moab) all thy days, for ever." (Ibid. xxiii. 7.) "Thou shalt not destroy the trees thereof (besieged city) for of them thou mayest eat." (Ibid. xx. 19.) "And a place shalt thou have without the camp whither thou shalt go forth abroad." (Ibid. xxiii. 13.) "And a spade shalt thou have with thy weapons." (Ibid. —. 14.) "And it shall be, when ye come nigh unto the battle, that the priest shall approach and speak unto the people." (Ibid. xx. 2.) "Fear not, and be not downcast, and do not tremble because of them." (Ibid. —. 3.) "When a man hath taken a new wife, he shall not go out to war . . . he shall be free for his house one year, and shall cheer up his wife whom he hath taken." (Ibid. xxiv. 5.) "When thou goest forth to war . . . and thou seest among the captives a woman of handsome

> form . . . then shalt thou bring her home to thy house . . . if thou have no delight in her, then shalt thou let her go whither she will; but thou shalt nowise sell her for money; thou shalt not make a servant of her." (Ibid. xxi. 10-14.)

The fulfilment of three commandments had to precede one another. A king had to be appointed before the Amalekites were destroyed; and the Amalekites were to be destroyed before the Temple could be built. A king is elected by the Sanhedrin, presided over by a prophet. A woman could not succeed to the Jewish throne. Deborah was not a queen; she judged Israel, and instructed them in the ways of God. Besides, whatever powers she had, came to her by divine authority. No descendant of proselytes could be a king, unless his mother was Jewish. The House of David will reign forever. An interruption by another line of kings will not be durable. The king must be honored, feared and respected. Even a prophet must conform to established rules when being received in audience by the king. The king must live in moderation. He has no right to surround himself with a host of women. Besides his lawful queen, he is permitted to retain in his household seventeen concubines. The widow of a king is never permitted to re-marry, not even another king. The king has the right to levy taxes for war purposes. A limited number of soldiers, such as home-guard and police, can be drafted by a proclamation of the king. In like manner he may draft officers. The king may declare war upon his own initiative, against the nations which were ordered to be destroyed, or against an invading enemy. All other wars can be conducted only upon the advice and with the consent of the Sanhedrin. All conquered territory, as a result of wars sanctioned by the Sanhedrin, become *ipso judicto* part of the Holy Land. No war must be started against any nation unless a proposal of peace is rejected by it. To Amon and Moab no proposal of peace was made.

It is forbidden to settle permanently in Egypt, unless it be conquered and become part of Judaea. But it is permitted to go to Egypt for commercial purposes.

The fruit trees of a besieged city must not be destroyed, unless they be dead or near their end of usefulness.

The concentration camps of the militia must be kept in a sanitary condition. A siege must begin three days before the approach of a Sabbath; but when the battle is on, it must be conducted on the Sabbath as well. A soldier acquires right of property on the spot he falls dead, and, therefore, must be buried there.

The special High-Priest for war appears twice before the soldiers; at the time when the drafting goes on, and before a charge against the enemy is made. On the first occasion he calls upon all who have lately married, planted a vineyard, or built a house, or have fear, to remain home. On the second occasion he addresses the troops before the battle is commenced, saying: "Hear, O Israel, ye come nigh this day unto the battle against your enemies; let not your hearts faint; fear not, and be not downcast, and do not tremble because of them. For the Lord your God it is who goeth with you, to fight for you against your enemies," etc. (Deut. xx. 3-4.) These words are repeated to the army by officers. Jewish soldiers are permitted to eat in the enemies' land everything they may find fit for human consumption. They also have a right to take women captives, but the latter must be brought home and taken as wives. If captive women refuse to become proselytes, they must not be sold, nor taken in slavery. They must be liberated.

When the Messianic era will dawn, the throne will be restored to the House of David, and all laws of Judaism will be in force again. But let no man think that the world will then change in its physical appearance, or that the laws of nature will be changed. The Messianic era will be an era of peace among all nations, and between all nations and Israel, which will be permitted to enjoy its own undisturbed. But before such era will be inaugurated great wars, the greatest in history, will come to pass, and thereafter all men will live in brotherly peace. May it come to pass in our days, Amen.

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